

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 12-5018-01-CR-DW
)	
SCOTT BRADLEY OLSEN,)	April 22, 2013
)	
Defendant)	Springfield, Missouri

CRIMINAL JURY TRIAL
BEFORE THE HONORABLE DEAN WHIPPLE
UNITED STATES DISTRICT JUDGE

VOLUME 1

APPEARANCES:

FOR THE PLAINTIFF:

MR. STEVEN M. MOHLHENRICH
U.S. ATTORNEY'S OFFICE
901 St. Louis Street, Ste. 500
Springfield, MO 65806

FOR THE DEFENDANT:

MR. BRIAN D. RISLEY
LAW OFFICE OF BRIAN RISLEY
1200-C East Woodhurst
Springfield, MO 65804

COURT REPORTER:

MS. JEANNINE RANKIN, CSR, CCR, RPR
U.S. COURT REPORTER
222 N. Hammons Parkway
Springfield, MO 65806

Proceedings reported by stenography; transcript produced by
computer.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

Page No.

APRIL 22, 2013

PRETRIAL RECORD	5
INSTRUCTION NOS. 1-7 READ	7
OPENING STATEMENTS BY MR. MOHLHENRICH	7
OPENING STATEMENTS BY MR. RISLEY	13

GOVERNMENT'S EVIDENCE

WITNESSES:

CHARLES PYLE	
Direct Examination by Mr. Mohlhenrich .	16
CONNIE MALONE	
Direct Examination by Mr. Mohlhenrich .	23
Cross-Examination by Mr. Risley . . .	63
MARK PARR	
Direct Examination by Mr. Mohlhenrich .	69
Cross-Examination by Mr. Risley . . .	73
MATTHEW NIEZGODA	
Direct Examination by Mr. Mohlhenrich .	75
Cross-Examination by Mr. Risley . . .	81
Redirect Examination by Mr. Mohlhenrich .	84
Recross-Examination by Mr. Risley . . .	88
MYRTLE PYLE	
Direct Examination by Mr. Mohlhenrich .	89

GOVERNMENT RESTS 92

DEFENSE MOTION 92

DEFENSE'S EVIDENCE

WITNESSES:

SCOTT B. OLSEN	
Direct Examination by Mr. Risley . . .	101
Cross-Examination by Mr. Mohlhenrich .	109
Redirect Examination by Mr. Risley . . .	119

1	I N D E X			
2				Page No.
3	DEFENSE RESTS			120
4	DEFENSE MOTION			121
5	APRIL 23, 2013			
6	INSTRUCTION CONFERENCE			123
7	INSTRUCTION NOS. 8-16, VERDICT FORMS READ			125
8	CLOSING ARGUMENTS BY MR. MOHLHENRICH			125
9	CLOSING ARGUMENTS BY MR. RISLEY			137
10	REBUTTAL CLOSING ARGUMENTS BY MR. MOHLHENRICH			144
11	REPORTER'S CERTIFICATE			148
12	<u>INDEX OF EXHIBITS</u>			
13	GOVERNMENT'S EXHIBITS	OFFERED	ADMITTED	
14	No. 1 Letter 5/09/11	25	25	
15	No. 2 Letter 5/09/11	25	25	
16	No. 3 Executive Order	25	25	
17	No. 4 Disaster Declaration	26	26	
18	No. 5 Disaster Amendment	26	26	
19	No. 6 Call Center Scripts	28	28	
20	No. 7 Title 44, 206.111	61	61	
21	No. 8 Title 44, 206.113	61	61	
22	No. 9 Help After a Disaster	30	30	
23	No. 10 FEMA Inspection Guidelines	32	32	
24	No. 11 FEMA Olsen file	33	34	
25	No. 14 Photographs	20	20	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX OF EXHIBITS

GOVERNMENT'S EXHIBIT	OFFERED	ADMITTED
No. 16 2011 Fair Market Rent	58	58
No. 17 Personal Property Rates	58	58
No. 18 General Warranty Deed	17	17
No. 20 Application	36	36
No. 21 Contacts Report (pgs 1-2)	53	53
No. 24 Submission	39	39
No. 25 FEMA Denial Letter	43	43
No. 26 Declaration and Release	44	44
No. 27 Submission	45	45
No. 28 Submission	49	49

* * * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

USA v SCOTT BRADLEY OLSEN

CASE NO. 12-5018-01-CR-SW-DW

CRIMINAL JURY TRIAL

APRIL 22, 2013

* * * * *

THE COURT: Call Case No. 12-05018, United States of America v. Scott Bradley Olsen. This is pretrial conference. Anything we need to do before we start picking our jury?

Mr. Mohlhenrich, you represent the government?

MR. MOHLHENRICH: Yes, sir.

THE COURT: You're going to have Mr. Niezgoda. Anyone else going to be joining you at the table?

MR. MOHLHENRICH: No, Your Honor.

THE COURT: Okay.

And, Mr. Risley, you represent the defendant?

MR. RISLEY: Yes, Your Honor.

THE COURT: And the lady's name?

MS. WASMUNDT: Tiffany Wasmundt.

THE COURT: Thank you. And you are the paralegal?

MR. RISLEY: Paralegal, yes.

THE COURT: All right.

Now, of course, I'm going to ask the bulk of the voir dire. We're going to try to see if we can qualify enough to have a 12-person jury plus one alternate if we have enough jurors. And when I finish I'll give each counsel an

1 opportunity to ask follow-up questions if you want to expand
2 on an answer or response that some juror gave.

3 Now, Mr. Risley, I had a question. I'm not
4 intending to ask this unless you tell me. "Question 11, Does
5 any member of the jury panel have strong feelings about the
6 war on guns?" Is guns going to come up?

7 MR. RISLEY: No, that was a mistake. I withdraw
8 that one. I borrowed this from another one.

9 THE COURT: That's fine. I couldn't understand why
10 I wanted to ask that.

11 MR. RISLEY: No.

12 THE COURT: But I thought I better ask.

13 All right. Anything further?

14 MR. MOHLHENRICH: Well, Judge, I wanted to comment
15 to the Court that both counsel expect that this trial could be
16 finished today if we push forward. It's not -- I don't think
17 the proof is going to be very extensive on either side.

18 THE COURT: Okay. That's good to hear. Of course,
19 it'll depend how knotty voir dire gets.

20 Right now what do we have, Karen?

21 COURTROOM DEPUTY: Last I heard was 36.

22 THE COURT: Of course, we had hoped for a few more.
23 Hope to end up with 28 qualified to get our panel, so if we
24 want an alternate, we got to qualify 31. So we'll see how we
25 come.

1 Anything on behalf of the defense?

2 MR. RISLEY: No, Your Honor.

3 THE COURT: Okay. Then I'll be in as soon as we get
4 ready to sit the panel.

5 (Court stands in recess.)

6 (Voir dire conducted.)

7 THE COURT: Members of the jury panel that are
8 staying with us, we're going to get started. We're ready to
9 go. So if you all will stand, raise your right hand to be
10 sworn in as the trial jury, I'll read the initial instructions
11 you're going to need.

12 (Jury duly sworn by courtroom deputy.)

13 THE COURT: Thank you. You may be seated.

14 I'm going to now read your initial instructions.

15 (Court reads Instruction Nos. 1-7 to jury and forms
16 of verdict.)

17 THE COURT: Thank you.

18 Government ready to make its opening statement?

19 MR. MOHLHENRICH: Yes, Your Honor. May it please
20 the Court.

21 Good morning. Once again, thanks for serving.

22 During the spring of 2011 there were a number of
23 natural disasters that struck the state of Missouri. Starting
24 on about April 19th of that year, severe storms, tornadoes and
25 flooding caused significant damage up north and that prompted

1 the President of the United States to declare a natural
2 disaster under the Robert T. Stafford Disaster Relief &
3 Emergency Assistance Act. Then on May 22nd, 2011, as everyone
4 knows, an EF5 tornado struck the city of Joplin causing
5 tremendous damage. On May 23rd, 2011, that presidential
6 disaster declaration was expanded to include Jasper and Newton
7 Counties.

8 Now, what this presidential declaration did is it
9 enabled the federal government and primarily the Federal
10 Emergency Management Agency, or FEMA, to provide certain kinds
11 of assistance to individuals affected by this disaster.
12 You'll hear about this in detail from a FEMA representative.
13 Her name is Ms. Connie Malone. She'll talk about the purpose
14 of the FEMA assistance, which is to provide immediate
15 assistance to people who were displaced and harmed by the
16 natural disaster. Various forms of assistance that are
17 authorized include rental assistance, replacement of essential
18 personal property and for homeowners' repairs if a primary
19 residence is damaged. It's not a substitute for insurance.

20 Finally, Ms. Malone will tell you about FEMA's
21 procedures for verifying the eligibility and damages. You'll
22 see why those procedures are necessary because although most
23 of the people who file claims for damage to their property are
24 honest, some are not.

25 One of the homes destroyed by the tornado was at

1 2305 Virginia Avenue in Joplin. That was a white,
2 single-family home. It was owned by Charles and Myrtle Pyle
3 since 1977. Myrtle goes by the name of Kay. There were four
4 people who lived at 2305 Virginia Avenue. Those people were
5 Charles and Myrtle Pyle, Harry McLaughlin, who was a nephew,
6 and Clara Rodriguez who was Myrtle Pyle's sister. The Pyles
7 were fully insured and they weren't eligible for FEMA
8 assistance, so although they were displaced by the storm and
9 the house was destroyed, they were compensated, so they didn't
10 receive any FEMA assistance. Harry McLaughlin was just living
11 there and he did receive some assistance with personal
12 property that had been damaged and rental assistance in
13 finding a new place.

14 Then there was one other person who filed a claim
15 for damage to his supposed property at 2305 Virginia Avenue
16 and that was the defendant, Scott Bradley Olsen. On May 26th
17 of 2011, Mr. Olsen submitted an online application. It's a
18 FEMA form which listed that address as his primary -- as
19 his -- not a primary residence, a secondary home, and he
20 explained later on to FEMA that that was where he stored some
21 business property. On May 10th of 2011, in fact, he
22 supplemented his claim with a letter that he was in the
23 process of moving into the house. He wrote in the letter that
24 he lost video production equipment, furniture and personal
25 property. He wrote in the letter that the person he was

1 sharing the house with had not been seen since the storm and
2 the utilities were in the other person's name. On the basis
3 of that representation, which was a little bit different than
4 what was in his first online application, FEMA ordered an
5 inspection because he said he was moving in and that was his
6 primary residence.

7 Olsen met the inspector, it was Mr. Mark Parr, on
8 June 21st of 2011 at the house for an inspection. After that
9 inspection took place, Mr. Parr entered a comment that the
10 applicant, Mr. Olsen, stated he had no damage to his primary
11 residence, and primary residence equals mailing address, which
12 for Mr. Olsen was a house on Wall Street that wasn't affected
13 by the tornado. On the basis of that, FEMA denied his claim.

14 However, Mr. Olsen persisted. On July 12th of 2011,
15 he submitted a statement, a letter, in fact, and a list of
16 property and a rental agreement purportedly signed by an
17 individual named Dean Richey. Now, the letter that he wrote
18 states, "I entered into a lease on 5/20/11 moving my personal
19 property in on the 21st of May. The property manager, Dean
20 Richey, signed the document and gave me the keys." And
21 accompanying this letter was a, you know, lease which had the
22 signature, you know, something -- looks like Dean Richey on
23 it.

24 Now, he further supplemented his claim on July 20th
25 of 2011. He furnished a letter from Dean Richey and a cover

1 email from Dean Richey to -- purportedly from Dean Richey to
2 Mr. Olsen. Now, the letter was word processed. It didn't
3 have an actual signature on it. It was word processed in kind
4 of a script font. It read in part, "On the 20th of May last,
5 I signed the lease agreement with Mr. Scott B. Olsen for the
6 amount of \$375 per month with a negotiated deposit amount of
7 \$300. (This is a reduced amount based on the cleaning and
8 painting of two rooms that Mr. Olsen agreed to undertake.)
9 The monies were received by me on the 20th. The keys were
10 given to Mr. Olsen. The lease was for one year and the
11 occupancy prior to the 1st of June was authorized as long as
12 the utilities were transferred into Mr. Olsen's name no later
13 than May 31st. I returned to the property on the 21st,
14 (Saturday), to check on the progress of the painting and
15 witnessed Mr. Olsen moving his personal property into the
16 residence. The residence was substantially destroyed on
17 Sunday the 22nd of May, 2011, by the F5 tornado that struck
18 Joplin. I hope this clarifies Mr. Olsen's resident status and
19 the monetary arrangement surrounding the rental." So this is
20 what Mr. Olsen submitted to FEMA.

21 FEMA contacted Mrs. Pyle, who was the owner of the
22 house, who said that she'd never heard of this Scott Bradley
23 Olsen or Dean Richey, no one had been authorized to rent out
24 the property, and on the basis of that, FEMA denied the claim.

25 Now, Special Agent Niezgoda became involved because

1 he is the criminal investigator with Homeland Security which
2 is what FEMA falls underneath of. Ultimately the defendant
3 was indicted and arrested and Mr. Niezgoda conducted an
4 interview of the defendant at the Joplin Police Department
5 following his arrest.

6 Now, the facts that you see, his initial online
7 application, he provided some letters and the letters expound
8 on the story a little bit and then the story changes when
9 Special Agent Niezgoda interviewed the defendant. The claims
10 that the defendant made to Special Agent Niezgoda is that, Oh,
11 my, he was the victim of a large scam, a rental scam, and that
12 his former roommate, Jasen Howard, had introduced him to an
13 unscrupulous individual by the name of Dean Richey who
14 collected this money from him and disappeared. He met Richey
15 outside of a big white house. He arrived at the house in a
16 Ford Econoline van that Jasen Howard claimed that he had
17 borrowed with all of the property, this extensive list of
18 personal property in the van. Richey had advised him that the
19 home would be vacant until Saturday the 21st, so they left the
20 property in the van sitting out on the street in front of the
21 house. The van disappeared and he never saw either Jasen
22 Howard or Dean Richey again. That was the defendant's story
23 following his arrest.

24 Now, these are the facts that you'll hear and at the
25 conclusion of the case I will come back to you and I'll argue

1 that the evidence establishes beyond a reasonable doubt that
2 the defendant, Scott Bradley Olsen, committed the crimes of
3 disaster fraud and making false statements as he's charged.

4 Thank you.

5 THE COURT: Thank you, Mr. Mohlhenrich.

6 Does the defense wish to make an opening statement
7 or reserve it?

8 MR. RISLEY: We'll make our opening statement, Your
9 Honor.

10 THE COURT: All right. Thank you. You may proceed.

11 MR. RISLEY: Ladies and gentlemen of the jury, thank
12 you for your time this morning and for your time today.

13 You've heard the government talk about the evidence
14 that they anticipate you hearing in the case today and I'll go
15 ahead and tell you that we agree with some of the evidence
16 that will be presented will be just as the government set
17 forth. There was an application that my client filled out,
18 there were some follow-up letters, and there were some
19 communications with members of FEMA as well as with the
20 Homeland Security officer, Mr. Niezgoda, with Officer
21 Niezgoda.

22 The sticking point in all of this and the reason
23 we're here today is that the government has charged Mr. Olsen
24 with making a material false or fraudulent statement or
25 representation specifically stating that his primary residence

1 was 2305 Virginia Avenue. That's in both counts, essentially
2 the same line. When you get to the end of this case, you've
3 going to get some instructions and there's going to be two of
4 them because there's two counts charged. In the first
5 instruction on both counts you're essentially going to see
6 that language -- actually, it's materially false or fraudulent
7 in one and then knowing and intentionally making a statement
8 claiming his primary residence was 2305 Virginia Avenue.

9 The issue is the facts that I believe you're going
10 to hear are going to list three occasions wherein my client
11 informed FEMA or a representative that 2305 Virginia was not
12 his primary residence. There's an application and in
13 Paragraph 8 it says 2305 Virginia, Paragraph 9 says his
14 alternate address of Wall Street which the government just
15 said. Paragraph 12 says, "Is No. 8 your primary residence?"
16 It says, "No," says, "secondary." So he tried to let them
17 know that. A follow-up conversation which he referenced on
18 June 21st with Mr. Parr said, "No, that's not my primary
19 residence but I lost some property." And then in another
20 conversation I believe you'll hear that.

21 So as the Court instructed you just a minute ago,
22 Mr. Olsen here is on trial for crimes charged, not anything
23 else. And after you hear the evidence of all the government
24 witnesses of this case -- I think you're going to see the
25 application, you're going to hear the occasion where the

1 defendant tried to state or tell FEMA that this was not his
2 primary residence, you're not going to see any documentation
3 or letter from defendant where he states, "2305 is my primary
4 residence." At the end of hearing all the evidence and
5 following the rules and instructions of the Court, we believe
6 the only finding you can reach on these two counts is not
7 guilty for Mr. Olsen.

8 Thank you.

9 THE COURT: Thank you.

10 Let's have a quick sidebar, please.

11 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING
12 PROCEEDINGS WERE HAD:)

13 THE COURT: I propose we recess for lunch, start our
14 evidence right after lunch, try to get lunch in an hour. Any
15 problem with that?

16 MR. MOHLHENRICH: No, Your Honor.

17 MR. RISLEY: No, Your Honor.

18 THE COURT: All right. Thank you.

19 (PROCEEDINGS RETURNED TO OPEN COURT:)

20 THE COURT: The better thing to do is we'll take our
21 noon recess and then we'll start the evidence right after
22 lunch. So during this noon recess do not say anything to
23 anyone or allow anyone to say anything to you about the case.
24 Do not form or express any opinions about the issues you will
25 be asked to decide until you've heard all the evidence and had

1 the case submitted to you for deliberation in the jury room.

2 If you'll follow the courtroom deputy, she'll show
3 you your jury room. Leave the notebooks in your chair and
4 she'll show you. Let's see if we can -- it's a quarter till
5 12. Let's see -- let's see if we can't get done by 1:00.

6 Everyone please rise while the jury is recessing for
7 lunch.

8 (Jury exits courtroom at 11:43 a.m.)

9 THE COURT: All right. Be in recess. See you at
10 1:00.

11 (Court stands in recess at 11:43 a.m.)

12 (Jury enters courtroom at 1:00 p.m.)

13 THE COURT: Call your first witness.

14 MR. MOHLHENRICH: Yes, Your Honor. The government
15 calls Charles Pyle.

16 CHARLES PYLE, GOVERNMENT WITNESS, SWORN:

17 DIRECT EXAMINATION

18 BY MR. MOHLHENRICH:

19 Q Good afternoon, Mr. Pyle. Thanks for coming in.

20 Could you please tell the members of the jury where
21 you now live?

22 A We reside -- our house -- our now house is 841 Empire.
23 We are at the moment staying with our daughter in Neosho.

24 Q Mr. Pyle, before that where did you live?

25 A 2305 Virginia.

1 Q In Joplin?

2 A Yes.

3 Q And how -- did you own the property?

4 A Yes.

5 Q How long had you lived there?

6 A Since February of '77.

7 Q I'm showing you what's been marked as Government's

8 Exhibit No. 18. Could you please take a look at that exhibit.

9 Can you tell the jury what it is?

10 A It's a deed, general warranty deed for the property.

11 Q That's the deed that you purchased the property with?

12 A Yes.

13 MR. MOHLHENRICH: I move to admit Exhibit 18.

14 THE COURT: What's the number again?

15 MR. MOHLHENRICH: Eighteen.

16 MR. RISLEY: No objection, Your Honor.

17 THE COURT: Government's Exhibit 18 will be

18 admitted.

19 MR. MOHLHENRICH: Retrieving that from the witness

20 and publishing that up on the ELMO.

21 Q (By Mr. Mohlhenrich) And who else owned the property

22 with you, Mr. Pyle?

23 A My wife.

24 Q And did she also live there since 1977?

25 A Yes.

1 Q Now, when the tornado struck Joplin on May 22nd of 2011,
2 did you and your wife reside there?

3 A Yes.

4 Q Who else lived in the property at the time?

5 A At the time there was my sister-in-law, Jacqueline
6 Rodriguez, and Harry McLaughlin, her son.

7 Q He was your nephew?

8 A Yes.

9 Q Can you describe for the jury what happened that day?

10 A Well, we had -- there was some shopping I needed to do,
11 there was some groceries and stuff. I had gone to the grocery
12 store to go shopping. I was going to pick up some carry-out
13 to bring home. About the time I got to the carry-out location
14 at 20th and Main, why, the lights flickered, the sirens went
15 off and the lights went out and the storm hit.

16 Q And what did you do next?

17 A I pulled out of where I was at on the drive-thru and
18 pulled into a parking lot next to them. It's a veterinary
19 establishment. And I waited out the storm there. I was on
20 the very edge of it.

21 Q And what happened as soon as the storm had passed? What
22 happened as soon as the storm passed?

23 A As soon as the storm had gotten down to where it was just
24 raining, I pulled out of there and I headed down to the house
25 which is south of Main.

1 Q Did you have any trouble finding your place?

2 A Yes, I did. The minute I crossed 20th Street, which is
3 one of the streets just there, why, you lose all sense of
4 direction. There was no trees, no buildings. Buildings were
5 all down. Lines were down in the road and everything. Pretty
6 much count the streets to get where you were going.

7 Q What did you find when you got to your address?

8 A I pulled in front of the house. Luckily, it was
9 completely open. Pulled in front of the house and the front
10 porch -- front part of the second story had been pulled up and
11 off and laid into the back yard.

12 Q Who was present in the house at the time?

13 A My wife and my sister-in-law.

14 Q Did they make it okay?

15 A They were in the basement. Yes, they were fine.

16 Q I'm showing you what's been marked as Government's
17 Exhibit No. 14. Can you take a look at that, please? What is
18 that?

19 A That's the aftermath of my house.

20 Q Those two photographs there, do they accurately depict
21 the way your house looked after the tornado?

22 A Yes, they do.

23 MR. MOHLHENRICH: Move to admit Government's Exhibit
24 No. 14.

25 THE COURT: Any objection?

1 MR. RISLEY: I need to look at it real quick.

2 MR. MOHLHENRICH: Certainly.

3 Retrieving the exhibit from the witness.

4 MR. RISLEY: No objection, Your Honor.

5 THE COURT: Government's Exhibit 14 will be
6 admitted.

7 MR. MOHLHENRICH: Publishing this to the jury on the
8 ELMO.

9 Q (By Mr. Mohlhenrich) So this first photograph here that
10 shows a house, that's your house?

11 A Yes, sir.

12 Q And what color was the house before the tornado?

13 A It was the red of the siding you see there.

14 Q And it had white trim on the siding and in the front of
15 the porch?

16 A Yes.

17 Q And this second photograph, does this accurately depict
18 the way your house looked from the inside?

19 A Yes, it does.

20 Q Thank you.

21 Now, after the tornado did you or you wife receive
22 any disaster funds as a result of the damage?

23 A No. We had insurance.

24 Q You had insurance to cover that?

25 A Yes.

1 Q How about Harry McLaughlin?

2 A Yes. No, as far as I know he -- he might have gotten
3 something through them but I don't think so.

4 Q Okay. And you've, of course, heard the story that
5 someone else claimed to have been residing at your home at the
6 time so I'm going to ask you a couple of names. Have you ever
7 heard of a Jasen Howard?

8 A No, sir.

9 Q And has anybody by that name ever resided at 2305
10 Virginia while you were living there?

11 A No, sir.

12 Q Has anybody by that name ever had or stored any property
13 at 2305 Virginia while you were living there?

14 A No, sir.

15 Q Have you heard the name Dean Richey?

16 A No, sir.

17 Q And you don't know anybody by that name?

18 A No, sir.

19 Q Did anybody by the name of Dean Richey ever have yours or
20 your wife's permission to rent your house out or show your
21 house to anybody who wanted to lease it?

22 A No, sir.

23 Q How about Scott Bradley Olsen, did you know anybody by
24 that name living in your house?

25 A No, sir.

1 Q Did anybody by that name ever attempt to move into your
2 house?

3 A No, sir.

4 Q I'm going to ask you to look at the gentleman sitting
5 there next to Mr. Risley in the darker suit with the open
6 collar shirt. Have you ever seen that gentleman before?

7 A No, sir.

8 Q Finally, thinking back to the two days before the
9 tornado, did you ever notice a large, white Ford Econoline van
10 parked on the street in front of your residence?

11 A Not that I remember, no, sir.

12 Q Did you ever notice any people standing out in front of
13 your residence pointing at it and perhaps signing some papers?

14 A No, sir.

15 MR. MOHLHENRICH: Nothing further for this witness.

16 THE COURT: Thank you.

17 Cross-examination?

18 MR. RISLEY: I have no questions, Your Honor. Thank
19 you.

20 THE COURT: May this witness be excused?

21 MR. MOHLHENRICH: Yes, sir.

22 THE COURT: Defense?

23 MR. RISLEY: Yes, Your Honor.

24 THE COURT: All right. Mr. Pyle, thank you for your
25 attendance. You're free to go.

1 Call your next witness.

2 MR. MOHLHENRICH: The government next calls
3 Ms. Connie Malone to the stand.

4 CONNIE MALONE, GOVERNMENT WITNESS, SWORN:

5 DIRECT EXAMINATION

6 BY MR. MOHLHENRICH:

7 Q Good afternoon, Ms. Malone. Would you please tell the
8 jury who you're employed by?

9 A Department of Homeland Security, FEMA, Federal Emergency
10 Management Agency.

11 Q How long have you been with FEMA?

12 A Little over 17 years, since 1996.

13 Q What is your position with FEMA?

14 A I am a program specialist liaison.

15 Q What does that mean? What do you do?

16 A Mostly I deploy to field disaster areas and assist with
17 policy and procedure between headquarters and the field.

18 Q In the course of your career with FEMA, how many
19 disasters have you deployed to?

20 A Since 2009 the best I can tell you is right around 20.

21 Q And how many disasters did you assist in where you didn't
22 deploy?

23 A Oh. Well, I'll give you a number since our new system
24 came into place 2000. It was about 450.

25 Q And when's the last disaster that you deployed to?

1 A I just returned March 29th from Mississippi.

2 Q Okay. And we're in Missouri right now.

3 A Yeah.

4 Q Okay. Could you please tell the jury what federal law
5 authorizes the government to provide disaster assistance to
6 people who have been harmed by natural disaster?

7 A Robert T. Stafford Act.

8 Q What is the prerequisite for the government being able to
9 provide that assistance? Do you need some sort of
10 declaration?

11 A Yes, federally declared declaration.

12 Q I'm showing you what have been marked as Government's
13 Exhibits 1 and 2. Could you please take a look at those and
14 tell me what they are?

15 A This is the letter to our director, Mr. Fugate,
16 authorizing him or letting him know that a declaration has
17 been submitted for Missouri.

18 Q And Exhibit No. 2?

19 A This would be a letter from the President sending it to
20 the governor of Missouri.

21 Q And both of those letters bear the President's signature
22 and come from FEMA's records?

23 A Yes, sir.

24 MR. MOHLHENRICH: Move to admit Government's
25 Exhibits No. 1 and 2.

1 MR. RISLEY: No objection, Your Honor.

2 THE COURT: Government's Exhibits 1 and 2 will be
3 admitted.

4 MR. MOHLHENRICH: Okay. Publishing Government's
5 Exhibit No. 1 up on the ELMO.

6 Q (By Mr. Mohlhenrich) Now that a disaster has been
7 declared, what sorts of aid can be provided?

8 A Temporary housing, which would be rental assistance,
9 repair, replacement, direct housing, otherwise known as
10 permanent housing.

11 Q Is that all implemented and administered by FEMA?

12 A Yes, sir.

13 Q Okay. I'm showing you Government's Exhibit No. 3. Could
14 you please tell the jury what that is?

15 A This is Executive Order 12148 where it's giving
16 authorization for the director to take over all functions for
17 the declaration.

18 Q Thank you.

19 MR. MOHLHENRICH: Move to admit Government's Exhibit
20 No. 3.

21 MR. RISLEY: No objection, Your Honor.

22 THE COURT: Thank you. Government's Exhibit No. 3
23 will be admitted.

24 Q (By Mr. Mohlhenrich) I'm showing you Government's
25 Exhibit No. 4. Could you tell the jury what that is?

1 A This is the first notification that comes out to the lay
2 staff, which is us in the field or those deploying to the
3 field, letting us know that the declaration has been declared.

4 Q What's the date of that?

5 A May 9, 2011.

6 Q Okay.

7 MR. MOHLHENRICH: And move to admit Government's
8 Exhibit No. 4.

9 MR. RISLEY: No objection, Your Honor.

10 THE COURT: Thank you. Government's Exhibit No. 4
11 will be admitted.

12 Q (By Mr. Mohlhenrich) I'm handing you Government's
13 Exhibit No. 5. Can you tell the jury what that is?

14 A This is the amendment to the declaration that was
15 declared on May 9th listing two additional counties, Jasper
16 and --

17 Q Would that be Jasper and Newton Counties?

18 A Yes, added to the declaration.

19 Q And that was May 23rd of 2011, the day after the tornado?

20 A Yes, sir.

21 MR. MOHLHENRICH: Move to admit Government's Exhibit
22 No. 5.

23 MR. RISLEY: No objection, Your Honor.

24 THE COURT: Thank you. Government's Exhibit No. 5
25 will be admitted.

1 Q (By Mr. Mohlhenrich) Now, once the disaster declaration
2 was expanded to include Jasper and Newton Counties in the
3 wake of the Joplin tornado, what did FEMA do?

4 A Well, anybody that registered at the time of the
5 declaration even if they registered undesignated counties, it
6 would have just moved right over to the declaration and
7 immediately started processing.

8 Q By register, you mean the people can apply for benefits?

9 A Right.

10 Q How do they do that?

11 A You can do it by smartphone now, by the telephone,
12 online, a lot of people have filed online.

13 Q Can people also come in to locations that FEMA sets up?

14 A Yeah, in recovery centers they have phone banks set up
15 which you would also be calling back to NPSC, National
16 Processing Service Center, to register, or sometimes they have
17 computers set up and you can do online registration there.

18 Q When you use the word recovery center, is that also a
19 disaster recovery center or DRC?

20 A Yes.

21 Q So when you're using those terms, that's what you're
22 referring to, a place where people can go in person to get
23 assistance?

24 A Yes.

25 Q I'm handing you Government's Exhibit No. 6. Can you

1 please tell the jury what that exhibit is?

2 A This is just guidelines for people that are registering
3 online. This is also a user guide for in-house, for us. This
4 mainly gives you the script of what you're going to see when
5 you register online.

6 Q So those are the questions that people need to answer in
7 order to apply for benefits?

8 A Correct.

9 Q And referring to a question about primary residence --

10 MR. MOHLHENRICH: I'm sorry. Move to admit
11 Government's Exhibit No. 6.

12 MR. RISLEY: No objection, Your Honor.

13 THE COURT: Government's Exhibit 6 will be admitted.

14 Q (By Mr. Mohlhenrich) I'll put a duplicate of that up on
15 the ELMO because I know that you read a little bit better
16 with the exhibit in front of you, don't you?

17 A Yes.

18 Q Now, referring to page 11, could you please tell the jury
19 what that says about residency requirements?

20 A Are you talking about on damaged dwelling?

21 Q Yes.

22 A "Please provide the following information about the
23 damaged dwelling: Where are you currently living or staying?
24 Select from: In your car, your damaged dwelling, family/
25 friend's dwelling, hotel/motel, mass shelter, rental unit,

1 other, place of employment."

2 Q That's not going to show very well up on the ELMO so I'll
3 just let you describe for the jury, what is the significance
4 of the term primary residence?

5 A Well, we don't address secondary homes. Primary
6 residence is somewhere where you spend six months out of the
7 year, where you vote.

8 Q Is that where somebody lives?

9 A Yes.

10 Q And what's the reason for that? What is the reason it's
11 significant? Can people claim for damage to a secondary
12 residence?

13 A They can claim it but we won't address it. We don't
14 address secondary homes. Our goal is to get people housed in
15 houses that are no longer able to live in their primary
16 residence.

17 Q FEMA's not meant to be a replacement for everything that
18 a person happens to lose in a disaster?

19 A That's correct.

20 Q What sorts of things is the FEMA assistance supposed to
21 help with?

22 A It's not going to get you back where you were before the
23 disaster. We just want to make sure you have shelter, a dry
24 place to stay, essential personal property to live. It's not
25 going to replace all of the things that you had before.

1 Q Okay. I'm showing you what's been marked as Government's
2 Exhibit No. 9. Can you please tell the jury what that is?

3 A This is the booklet Help After Disaster, An Applicant's
4 Guide. One of these will go out with every registration. A
5 lot of people are doing online now, they get all their
6 correspondence through the computer, and a copy of this would
7 go. They can also pick up one at the disaster recovery
8 center. It's just a step-by-step guide to tell you about what
9 FEMA does, what you're possibly eligible for. It tells you
10 what to do if you see something wrong on your application. It
11 tells you how to appeal. It just has a lot of good
12 information step-by-step to lead you through the process.

13 MR. MOHLHENRICH: Move to admit Government's Exhibit
14 No. 9.

15 MR. RISLEY: No objection, Your Honor.

16 THE COURT: Thank you. Government's Exhibit 9 will
17 be admitted.

18 MR. MOHLHENRICH: Publishing the cover of that up on
19 the ELMO so that the jury can see what we're referring to.

20 Q (By Mr. Mohlhenrich) That's disseminated in a variety
21 of ways like you just testified?

22 A Correct.

23 Q Okay. Now, who is it that initially evaluates whether an
24 individual is eligible for FEMA assistance?

25 A Well, we have business rules that if you register and

1 everything meets the business rules, what I mean is identity
2 has passed, that's where your name and social match,
3 occupancy, ownership is not a criteria. Basically, it's
4 renters, for rental. So it would be IDV, occupancy, 969 has
5 been signed, and it will go through the system clean.

6 Q Are there also inspections to determine what property
7 people might have lost?

8 A Right.

9 Q Do inspectors have guidelines that they follow?

10 A Yes.

11 Q And I'm referring you to Government's Exhibit No. 10.
12 Can you tell the jury what that is?

13 A This is the inspection guidelines that every inspector
14 has with him. It's just -- it's kind of like their bible. It
15 gives them a step-by-step. If they run into a situation they
16 don't know how to answer it, for instance, an example I could
17 give you, if we tear out a bathroom floor, it just tells him
18 in here also include a toilet reset. So it's just his bible.
19 It's just their way of doing a correct inspection.

20 Q So it goes to that level of detail?

21 A Absolutely.

22 Q Is the goal to insure that all of these are processed
23 consistently?

24 A Yes, sir.

25 MR. MOHLHENRICH: Move to admit Government's Exhibit

1 No. 10.

2 MR. RISLEY: No objection.

3 THE COURT: Government's Exhibit 10 is admitted.

4 Q (By Mr. Mohlhenrich) Those are the inspection
5 guidelines that were actually in place during this disaster,
6 correct?

7 A Yes.

8 Q By the way, I don't think I covered it before, was there
9 a numerical designation for this particular disaster?

10 A Yes, 1980.

11 Q That's the number that this disaster is referred to?

12 A Every disaster has a number.

13 Q Now, showing you what's been marked as Government's
14 Exhibit No. 11. Can you please tell the jury what that is?

15 A This would be the certified copy that was sent from the
16 mailroom NCT to you.

17 Q Okay. That would be the certified copy of what?

18 A Copy of the registration, copy of the comments, copy of
19 the letters that were sent, the contacts, any incoming mail
20 that we received from the applicant.

21 Q Generally are we talking about a FEMA file for one Scott
22 Bradley Olsen?

23 A Yes.

24 Q Those are official documents of FEMA that have been
25 certified and kept in the normal course of business?

1 A Yes, sir.

2 MR. MOHLHENRICH: Move to admit Government's
3 Exhibit No. 11.

4 MR. RISLEY: May we approach, Your Honor?

5 THE COURT: Yes.

6 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING PROCEEDINGS
7 WERE HAD:)

8 MR. RISLEY: I don't want to object to the file --
9 there are parts of the file that contain comments of people
10 that aren't here. I'm afraid some of those comments will
11 contain hearsay. I understand it's the official file on the
12 record, but I think focusing on those comments may be getting
13 into some hearsay. For that basis I would object to those
14 statements that contain comments of people he may have talked
15 to.

16 MR. MOHLHENRICH: In response the government would
17 say that the government will not publish the entire file to
18 the jury. We have selected certain sections of it that we'll
19 present individually as exhibits to be published.

20 THE COURT: Okay. But we must keep record of it,
21 make sure that's all we're going to send to the jury. If they
22 ask for this during deliberations, defense is right, we can't
23 send them the entire file. So I'm going to admit it with the
24 qualification that the parts that are shown to the jurors
25 shall be sent to the jury for deliberation.

1 MR. MOHLHENRICH: Understood, Your Honor.

2 THE COURT: All right.

3 MR. RISLEY: Thank you, Your Honor.

4 (PROCEEDINGS RETURNED TO OPEN COURT:)

5 THE COURT: What was the number of that exhibit?

6 MR. MOHLHENRICH: Eleven, Your Honor.

7 THE COURT: Government's Exhibit 11 will be admitted
8 qualifiedly.

9 Q (By Mr. Mohlhenrich) Now I'm going to show you
10 Government's Exhibits No. 20 through 28. These are
11 individual parts of Government's Exhibit No. 11 that you've
12 looked at before?

13 A Okay.

14 Q Are those -- there was a question pending. Each of those
15 exhibits, No. 20 through 28, those all came from Government's
16 Exhibit No. 11? They're smaller parts of that file that --

17 A Yes, sir.

18 Q -- will perhaps be helpful to the jury?

19 A Yes.

20 Q Focusing you first on Government's Exhibit No. 20, what
21 is that document?

22 A This is a copy of the registration. We send a copy to
23 the applicant after they register, whichever way they
24 register, by phone, smartphone, online.

25 Q So that is an actual print-out of an application that was

1 made. Who was the applicant?

2 A Scott Olsen.

3 Q And is it -- is that document a record of his answers to
4 the questions in Exhibit 6 which was the registration script?

5 A Yes, sir.

6 Q And on what date was the disaster assistance application
7 filed?

8 A 5/26.

9 Q That would be May 26th?

10 A May 26th.

11 Q That's fine. I think the jury understands but just to
12 clarify, May 26th.

13 THE COURT: What year?

14 THE WITNESS: 2011.

15 MR. MOHLHENRICH: Thank you, Judge.

16 Q (By Mr. Mohlhenrich) What address did Mr. Olsen file
17 for?

18 A 2305 Virginia Avenue, Joplin, Missouri.

19 Q How did he answer the question of if this property was
20 his primary residence at the time of the disaster?

21 A He listed it as a secondary home.

22 Q Based on that answer, would an inspection have been
23 ordered of 2305 Virginia Avenue in conjunction with
24 Mr. Olsen's application?

25 A No.

1 MR. MOHLHENRICH: Move to admit Exhibit 20.

2 MR. RISLEY: No objection, Your Honor.

3 THE COURT: Exhibit 20 will be admitted.

4 Q (By Mr. Mohlhenrich) Now, what is Exhibit No. 21?

5 A This is contacts from the events log. Each time
6 something happens in the process, it goes into what we call
7 the events log. It's kind of like the index. Any comments,
8 any time the applicant contacts us, any time we do any work on
9 his case, these go into the events log.

10 Q Okay. And Exhibit No. 22, what is that document?

11 A It's the same thing, just a continuation. This is the
12 comments report.

13 Q Okay. And what's the difference between the contacts and
14 the comments?

15 A Contacts are when we actually attempt to contact someone
16 or we are talking with them whether we're sitting across from
17 them or they're on the phone with us. A comment is something
18 that we do in the way of processing.

19 Q Okay. And do those reports all contain statements that
20 other people have made to FEMA?

21 A Correct.

22 Q And some statements that Mr. Olsen has made to FEMA?

23 A Correct.

24 Q It's all mixed in there in different line entries?

25 A Yeah. Anything that he said would be a contact, anything

1 that we did on our own would be a comment.

2 Q So I'm going to ask you to address specific parts of
3 those two exhibits as we're referring to other exhibits that
4 we go through, so if you could keep those handy with you.

5 Now, looking at -- there was a June 10, 2011, entry
6 in the contacts report. Can you please advise the jury what
7 that entry indicates?

8 MR. RISLEY: Judge, objection. Can we approach?
9 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING PROCEEDINGS
10 WERE HAD:)

11 MR. RISLEY: For the record I'll object to this
12 testimony as hearsay. I believe it comes from a contact that
13 this woman didn't say. I understand these are business
14 records, but she's essentially going to testify as to what
15 somebody else heard him say and then report.

16 MR. MOHLHENRICH: Government's response is it's the
17 statement of a defendant so that's the exception to the
18 hearsay rule.

19 THE COURT: This is the statement the defendant
20 given to someone -- or to this lady? Who's it given to?

21 MR. MOHLHENRICH: It was given to a FEMA
22 representative and entered it into the FEMA system's records.

23 THE COURT: Are you going to establish who that was
24 given to?

25 MR. MOHLHENRICH: Yes.

1 THE COURT: Okay. With that indication, objection
2 overruled.

3 MR. MOHLHENRICH: Thank you, Judge.

4 (PROCEEDINGS RETURNED TO OPEN COURT:)

5 Q (By Mr. Mohlhenrich) Now, who made that entry into the
6 contacts report?

7 A Mary Farrell who was at one of the disaster recovery
8 centers. This is DRC No. 6.

9 Q By the way, where is DRC No. 6 located? Is that
10 somewhere within Joplin?

11 A Yes.

12 Q And what does that contact indicate?

13 A Well, it indicates the applicant came into the recovery
14 center and talked to one of the agents there. Her comment is,
15 "App stated was in the process of moving into the house when
16 the storm hit. App said he lost all his video production
17 equipment he used in his business, furniture and other
18 personal property. App stated no renter's insurance. App
19 stated person sharing house with has not been seen since the
20 storm and the utilities were in the other person's name. App
21 furnished letter to clear up possible duplication of address.
22 Routed to IRS." This would have had a document with it.

23 Q By app, are you referring to the claimant on that file,
24 Mr. Scott Bradley Olsen?

25 A Yes, sir.

1 Q Now, I'm going to show you Exhibit No. 24. As a matter
2 of fact, you have it in front of you. Could you please pull
3 out Exhibit No. 24. Can you tell the jury what that exhibit
4 is?

5 A This is a letter that was submitted by the applicant at
6 the DRC to be sent to the mailroom to be scanned into the
7 file. It's a letter of intent to occupy.

8 Q Okay. And that's the letter that was provided to FEMA?

9 A Yes.

10 MR. MOHLHENRICH: Move to admit Government's Exhibit
11 No. 24.

12 MR. RISLEY: No objection, Your Honor.

13 THE COURT: Government's Exhibit 24 will be
14 admitted.

15 Q (By Mr. Mohlhenrich) If you could open that up and read
16 it to the jury, specifically the third page. I'm also
17 publishing this up on the ELMO.

18 A Third page is a letter from Scott Olsen. "I, Scott
19 Olsen, and Jasen Howard were co-renting the single-family home
20 at the above address. I was paying the deposit cash, Jasen
21 was to pay the electric and the gas in his name and we would
22 split the rent 375. Jasen was last seen by the clerk at Steak
23 & Shake on the 20th -- "

24 Q Could that be Snack Attack?

25 A Yeah, possibly. "-- on the 20th walking south just prior

1 to the tornado. Under penalty of perjury I declare this
2 statement is true."

3 Q So, "I, Scott Olsen, and Jasen Howard were co-renting the
4 white, single-family home at the above address."

5 What would that statement indicate to FEMA personnel
6 who are processing that application?

7 MR. RISLEY: Judge, I object.

8 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING PROCEEDINGS
9 WERE HAD:)

10 MR. RISLEY: Objection. Calls for speculation for
11 her to form a mental impression based off what the letter
12 indicates. Best evidence is the letter itself.

13 MR. MOHLHENRICH: This lady is a FEMA program
14 specialist. She processes these documents for a living. I'm
15 asking her how she would process -- or how a FEMA personnel
16 would process documents that have statements like that in it.

17 THE COURT: Rephrase the question in that manner.
18 Objection will be overruled. What she would do with that
19 letter, how she would process it.

20 MR. MOHLHENRICH: Thank you, Your Honor.

21 (PROCEEDINGS RETURNED TO OPEN COURT:)

22 Q (By Mr. Mohlhenrich) Ms. Malone, based on the statement
23 in that letter, how would FEMA personnel process the
24 applicant's claim?

25 A Well, normally we would issue an inspection. We would

1 have to do some calling first to verify or have the applicant
2 supply documents proving they intended to occupy a home, for
3 instance, leaving one place and going to another, maybe a
4 termination of a lease. It would just require a little more
5 work on our part as far as verifying information.

6 Q And based on that submission by the applicant, Mr. Olsen,
7 was an inspection ordered of 2305 Virginia?

8 A Yes.

9 Q And how do you know that?

10 A From the file.

11 Q Okay. Now, during the inspection -- first of all, can
12 you please tell the jury what normally happens when there is
13 an inspection? Who is the inspector? What does an inspector
14 do?

15 A Well, in this case we order the inspection. The
16 inspector goes out -- or he calls the applicant normally to
17 set up an appointment, unless he happens to be in the area, he
18 might stop by, but typically they call, make an appointment to
19 meet the applicant at the damaged dwelling.

20 Q What date did the inspection in this particular case take
21 place?

22 A 6/21.

23 Q And that was June 21st of 2011?

24 A Yes.

25 Q And what did the inspector indicate that Mr. Olsen said

1 to him?

2 A The inspector said not primary residence, "app did not
3 reside at the DD," which is damaged dwelling, "at the time of
4 the disaster. App had temporarily stored self-employment
5 business items equal camera, film, movies at the DDA," damaged
6 dwelling address. "App stated no damage to primary
7 residence," which equals his mailing address, which he's
8 telling us his primary residence was the address he gave for
9 his mailing address.

10 Q Okay. So when an individual indicates that they're
11 storing self-employment business items at a location and that
12 it's not their primary residence, is that something that FEMA
13 would pay money to them for?

14 A No. We don't address business items. That would fall
15 under Small Business Administration. We are housing. We
16 handle temporary housing.

17 Q So did FEMA deny his claim?

18 A Yes, sir.

19 Q And referring you to Exhibit No. 25, can you please tell
20 the jury what that document is?

21 A This is a copy of the outgoing letter of denial to
22 Mr. Olsen.

23 MR. MOHLHENRICH: Move to admit Government's Exhibit
24 No. 25.

25 MR. RISLEY: No objection, Your Honor.

1 THE COURT: Government's Exhibit 25 will be
2 admitted.

3 MR. MOHLHENRICH: Publishing the first page of that
4 to the jury.

5 Q (By Mr. Mohlhenrich) This is a denial letter informing
6 Mr. Olsen that he was found not eligible for benefits. What
7 was the reason that FEMA found him not eligible for the
8 benefits?

9 A Occupancy not verified.

10 Q Okay. Now, returning to Exhibit No. 21 which is the
11 contacts report, what happened on July 1st of 2011?

12 A The applicant went back to DRC 6 and he submitted a 9069,
13 which is declaration of release which is a document stating
14 that you are a U.S. citizen and that the statements that you
15 give are true and correct.

16 Q Declaration and release and 9069, those terms are used
17 synonymously by FEMA personnel?

18 A Yes.

19 Q 9069 is actually an outdated reference, isn't it?

20 A Yes. It's 009 now but it will always be 9069.

21 Q If you see or the jury were to see a reference to 9069 in
22 the records, that would be a reference to a declaration and
23 release?

24 A Correct.

25 Q And could you take a look at Exhibit No. 26. Is that a

1 declaration and release with Scott Bradley Olsen's signature
2 on it?

3 A Yes, it is.

4 MR. MOHLHENRICH: Move to admit Government's
5 Exhibit 26.

6 MR. RISLEY: No objection, Your Honor.

7 THE COURT: Thank you. Government's Exhibit 26 will
8 be admitted.

9 MR. MOHLHENRICH: I'm publishing that to the jury.

10 Q (By Mr. Mohlhenrich) So this is the applicant's
11 affirmation that the information that they provided in their
12 application is true and correct?

13 A Correct.

14 Q Okay. What other -- what was the next submission that
15 Mr. Olsen had made?

16 A The one on 7/9?

17 Q Yeah, referring you to Exhibit 21, the contacts report,
18 for July 9th of 2011.

19 A He went back to the DRC. DRC 6, "Verified critical info.
20 App stated he had no renter's insurance. App states he moved
21 to the rental apartment on May 21st with all his belongings.
22 App states he lost everything due to the tornado. App never
23 received FEMA inspection. App also states that there is
24 nothing left of the damaged dwelling, everything has been
25 removed. App submits letter stating under penalty that he was

1 living in the apartment at the time of the tornado. App
2 submits proof of lease for damaged dwelling along with
3 itemized loss of personal property items."

4 Q So that's an indication that Mr. Olsen returned to the
5 disaster recovery center and submitted more documents and gave
6 an explanation?

7 A Yes.

8 Q Now, referring you to Exhibit No. 27, what is that?

9 A App request submitting following occupancy statement,
10 loss of personal property items and proof of renter's lease.

11 Q Those are documents that were received there at that
12 disaster recovery center?

13 A Yes, sir.

14 MR. MOHLHENRICH: Move to admit Government's Exhibit
15 No. 27.

16 MR. RISLEY: No objection, Your Honor.

17 THE COURT: Thank you. Government's Exhibit 27 will
18 be admitted.

19 MR. MOHLHENRICH: I'm publishing starting on the
20 second page -- the first page is a cover sheet, the second
21 page to the jury.

22 Q (By Mr. Mohlhenrich) Could you please read that letter
23 to the jury?

24 A "I, Scott Olsen, this statement accompanies my rental
25 agreement for the home at 2305 Virginia in Joplin, Missouri.

1 I entered into a lease on 5/20/11 moving my personal property
2 in on the 21st of May. The property manager, Dean Richey,
3 signed the document and gave me the keys. The address and
4 contact info for him and the owner were in the house when the
5 tornado struck. All I have is the rental agreement receipt.
6 The house at 2305 Virginia has also never been inspected by
7 FEMA. There is/are no rental insurance on personal property."

8 Q Okay. Looking at the next page that was -- attached is a
9 list of personal property, so if we can refer to the next
10 page. Could you read to the jury what personal property was
11 listed in the letter?

12 A "List of the personal property lost: Dining set with
13 four chairs, \$250; hutch, \$100; two dressers, \$100; one desk,
14 \$199; coffee table, \$25; couch and loveseat, \$150; 26-inch
15 flat screen TV monitor, Panasonic, 399; queen bed and frame,
16 275; nightstand, \$50; two suits, \$400; miscellaneous clothes,
17 \$200; one Sensor XL1 video camera and tripod, \$500;
18 approximately 75 DVDs and player, Emerson, \$300; a Dell
19 Panasonic 2 coordinator used, \$125."

20 Q Could that be a Dell Pentium 3 computer?

21 A Yeah, that could be computer.

22 Q Okay. And going back to the first page again where --
23 the second paragraph where Mr. Olsen states, "I entered into a
24 lease on 5/20/11 moving my personal property in on the 21st.
25 The property manager Dean Richey signed the document and gave

1 me the keys."

2 Now, was there a lease submitted as well with a
3 signature on it that purported to be a Dean Richey?

4 A Yes.

5 Q Is that the third page?

6 A Yes.

7 MR. MOHLHENRICH: And publishing that up on the ELMO
8 to the jury.

9 Q (By Mr. Mohlhenrich) Can you please read the amount of
10 the deposit and the amount of the rent paid in that?

11 A Amount of the deposit is \$300, rent paid was 375 with a
12 \$25 key deposit.

13 Q What date was this lease supposedly signed?

14 A May 20th, 2011.

15 Q And is there a signature in the property manager/owner
16 block?

17 A Yes, Dean Richey.

18 Q That appears to be a Dean Richey?

19 A Yes.

20 Q Now, what did -- how did FEMA process Mr. Olsen's
21 application after he submitted those documents?

22 A Well, we issued the inspection. Let me get back to the
23 other page.

24 Q The inspection took place on June 21st, you already
25 testified, so what did FEMA do after he submitted that

1 document? I'm sorry. Did Mr. Olsen return and submit
2 anything else? Referring you to July 20th of 2011.

3 A Yes, he returned to DRC, this time verified all critical
4 data. "App furnished proof of occupancy." It's a rental
5 lease. "App letter of explanation about lease agreement.
6 Letter from the property manager stating app did have a lease,
7 had deposited money on May 20th. App was given keys to DD on
8 that date and email address for property manager furnished by
9 the applicant."

10 Q Now, are those -- based on those entries, are those
11 statements the defendant would have made to the FEMA person
12 who was assisting him?

13 A Yes.

14 Q And what's that person's name?

15 A Mary Farrell.

16 Q And referring you to Exhibit No. 28, are those the
17 documents that the defendant submitted when he entered the
18 DRC?

19 A It's the lease, his letters, a letter from Dean Richey
20 from Yahoo.

21 Q Those are the documents that were submitted there that
22 were referenced in that contacts report?

23 A Yes.

24 MR. MOHLHENRICH: Move to admit Exhibit 28.

25 MR. RISLEY: No objection, Your Honor.

1 THE COURT: Government's Exhibit 28 will be
2 admitted.

3 MR. MOHLHENRICH: And publishing this up on the ELMO
4 starting with the fourth page since the first couple of pages
5 are cover sheets.

6 Q (By Mr. Mohlhenrich) This was a copy of the same lease
7 that was in the last submission by the defendant?

8 A Yes.

9 Q And the next page, is that a copy of the same letter that
10 was in the last submission by the defendant?

11 A Yes.

12 Q And looking at the next page -- well, actually, let me
13 skip to the page after the next page because it looks like
14 that's -- this came first in time. Is that a cover email that
15 Mr. Olsen submitted?

16 A Yes.

17 Q And could you read the text of that cover email?

18 A On the last one?

19 Q Yes.

20 A "Sorry to hear about your trouble with FEMA. I enclosed
21 a letter as an attachment using MS Word. I hope this
22 satisfies everyone as I have moved out of Missouri since most
23 of the properties I was looking after were destroyed in the
24 tornado," signed Dean Richey -- or not signed by but printed
25 Dean Richey.

1 Q Thank you. Going to the page after that, is that another
2 declaration and release that bears Mr. Olsen's signature?

3 A Yes, it is.

4 Q What's the date of this declaration and release?

5 A 7/20, 2011.

6 Q And now going back to the page that was before that cover
7 email, is that -- are you able to read something that small?

8 A I can try.

9 Q If you can. If not I'll publish it to the jury myself,
10 whichever you prefer.

11 A "My name is Dean Richey and for the past several years I
12 have worked for numerous property" something.

13 Q That's okay. I'll publish it to the jury because it's a
14 little bit difficult to read.

15 "To whom it may concern." The date on the letter is
16 July 20th of 2011. "To whom it may concern. My name is Dean
17 Richey and for the past several years I have worked for
18 numerous homeowners, property management companies and
19 apartment complexes around the Joplin, Galena and Baxter
20 Springs areas. I do maintenance, repairs, security, rent
21 collection, and leasing. I have recently relocated to the
22 Baxter Springs area of Kansas. One of the properties I
23 maintained was located at 2305 South Virginia Avenue in
24 Joplin, Missouri. On the 20th of May last, I signed the lease
25 agreement with a Mr. Scott B. Olsen for the amount of \$375 per

1 month with the negotiated deposit amount of \$300. This is a
2 reduced amount based on the cleaning and painting of the rooms
3 that Mr. Olsen agreed to undertake. The monies were received
4 by me and the 20th and the keys were given to Mr. Olsen. The
5 lease was to be for one year and occupancy prior to the 1st of
6 June was authorized as long as the utilities were transferred
7 into Mr. Olsen's name no later than May 31st. I returned to
8 the property on the 21st, Saturday, to check on the progress
9 of the painting and witnessed Mr. Olsen moving his personal
10 property into the residence. The residence was subsequently
11 destroyed on Sunday the 22nd of May, 2011, by the F5 tornado
12 that struck Joplin. I hope this clarifies Mr. Olsen's
13 resident status and the monetary arrangement surrounding the
14 rental. Respectfully, Dean Richey," and has an email address
15 richey.dean@yahoo.com.

16 Now, based on these statements, what further actions
17 did FEMA take?

18 A The caseworkers started making phone calls to the linked
19 case, to the person that was the actual owner for that
20 address. And also there was no phone number for Dean Richey.

21 Q And moving back a second, you referenced a linked case.
22 What do you mean by a linked case?

23 A When people register and they register for the same
24 address, they link up, which means nobody's going anywhere
25 until we resolve that duplication, is what I call it. So what

1 we had was we had the owner of the property, also another
2 household member, also Mr. Scott Olsen all linked to that same
3 address, because we don't want to duplicate benefits.

4 Q Okay. And when there are linked cases what investigative
5 measures does FEMA take in order to verify when more than one
6 person is claiming for a given dwelling?

7 A We have to make phone calls, talk to the applicants, see
8 what the situation is. For instance, you can have a
9 landlord/tenant relationship. So we would always be making
10 calls to resolve those situations.

11 Q Now, without referring to any specific statements that
12 people other than Scott Olsen made to FEMA personnel, does the
13 record indicate that phone calls were made to research this?

14 A Yes.

15 Q And based on -- after those phone calls were made, what
16 determination did FEMA make regarding the status of
17 Mr. Olsen's application?

18 A Ineligible, no primary residence.

19 Q Did Scott Olsen then contact FEMA again on July 27th of
20 2011 to inquire about his application?

21 A Yes.

22 Q What was he informed at that time?

23 A That he was not eligible.

24 MR. MOHLHENRICH: Now, at this point, Your Honor, I
25 would move to -- because as the defense has correctly pointed

1 out, there are statements from other individuals on the third
2 page of that contact sheet which would be inadmissible
3 hearsay, so the government moves to admit pages 1 and 2 of
4 Exhibit No. 21 into evidence.

5 MR. RISLEY: One second, Your Honor.

6 THE COURT: Sure.

7 Exhibit 21?

8 MR. MOHLHENRICH: Twenty-one, Your Honor, yes.

9 MR. RISLEY: No objection.

10 THE COURT: Thank you. Pages 1 and 2 of Exhibit 21
11 will be admitted.

12 MR. MOHLHENRICH: Now I'm going to publish page 1
13 for the jury.

14 Q (By Mr. Mohlhenrich) Just to walk the jury through this
15 in case they request to see this exhibit later on in
16 deliberations, the first entry there it appears to be -- I
17 need to blow this up a little bit, looking at the date, that
18 was July 10th -- or, I'm sorry, June 10th of 2011?

19 A Yes.

20 Q And Mary Farrell would have been the FEMA representative
21 who had the contact with whomever it is that's listed in the
22 entry, in this occasion, Mr. Olsen?

23 A Correct.

24 Q The summary text, what is that?

25 A That would have been text she would have entered for her

1 conversation with the applicant.

2 Q Okay. And then the contact text, what procedure is
3 normally used when someone processes that information?

4 A I'm not sure.

5 Q Would somebody come in and tell the FEMA worker something
6 and then the FEMA worker would enter something into a
7 computer?

8 A Correct.

9 Q That's how it gets in there?

10 A They're normally sitting right across from them and as
11 they're talking they're entering this data.

12 Q Okay. So, "App stated he was in the process of moving
13 into the house when the storm hit." The app means the
14 applicant?

15 A Yes, sir.

16 Q And, "App stated he lost all of his video production
17 equipment he used in the business, furniture and other PP."
18 Does PP mean personal property?

19 A Personal property.

20 Q "App stated no renter's ins."

21 A Insurance.

22 Q "App stated person sharing house with has not been seen
23 since storm and utilities were in other person's name." Then,
24 "App furnished letter to clear up possible duplication of
25 address. Routed app to IRS." What does that mean?

1 A In a disaster recovery center they have the American Red
2 Cross, they have IRS, they have Department of Human Services.
3 They have a lot of different entities in there for people to
4 visit. So when a person comes in, we want to make sure they
5 go to all of those areas for assistance, mitigation, things
6 like that."

7 Q Then looking at the next entry, was that on June 13th of
8 2011?

9 A Yes.

10 Q And Michelle Wall was the FEMA employee?

11 A Yeah. What happens is at a recovery center the documents
12 that are submitted by an applicant are normally sent to the
13 JFO, which is the Joint Field Office which is the big office
14 in the field in a disaster, and from there the documents are
15 submitted to the mailroom.

16 Q Okay.

17 A Because recovery centers, some of them don't have faxing
18 capabilities.

19 Q Looking at the July 9th entry of 2011, via Eva McDonald
20 Russo, it says DR6 -- in the contacts text, "DR6 verified
21 critical info." What does that mean?

22 A Well, any time an applicant wants -- in their file,
23 whether they call the help line, whether you go into a DRC, we
24 have certain information that we have to verify to make sure
25 that you're the person that actually owns that file. We would

1 be asking for verification of a Social Security number, your
2 damaged dwelling address, your current phone number, your
3 mailing address. Those are answers that you would have to
4 give us and they would have to go file or you wouldn't get
5 into the case.

6 Q So somebody has to prove who they are when they come in?

7 A Yes.

8 Q Then after that it says, "App stated he had no renter's
9 ins." That means insurance?

10 A Yes.

11 Q "App states he moved into the rental apartment on May
12 21st with all his belongings. App states he lost everything
13 due to the tornado. App never received FEMA inspection. App
14 also states there is nothing left at the damaged dwelling.
15 Everything has been removed." And then it refers to a letter
16 that he submitted. So were those comments something that a
17 FEMA person would type into the system and would they then
18 take the letter and process it?

19 A Yes.

20 Q Then looking at the entry on July 17th of 2011, what is
21 that an indication of is happening?

22 A He has submitted an appeal letter. And Patricia Lundey
23 works in the appeals department so she -- this is a contact
24 that was made. She called -- let's see. No, he called
25 wanting information on his appeal. "Info verified. No

1 changes. App calling about status because when he calls
2 automated it tells -- it says ineligible but when he goes to
3 the DRC, they tell him it's in the appeals queue."

4 Q That's all Greek to me. But the statements down there
5 where it says, "Went through the documents sent in and advised
6 him to get phone number of property manager and find,"
7 something, "in his name at that address to show he was living
8 there. All utilities to be changed over on 5/23, 2011, but
9 then the disaster and nothing was left to have power to."

10 So is that a statement from a FEMA person that he
11 needed to provide some additional information?

12 A Yes. She's trying to give him instructions on what we
13 need in order to prove occupancy.

14 Q Then the next entry is on 7/20 and that's when he
15 returned with those documents, the letter of explanation?

16 A Right.

17 Q And was there a property manager's phone number in the
18 documentation that he submitted?

19 A No.

20 Q Turning your attention now to let's say for a moment that
21 this claim had been authorized or claims in general. When
22 they are authorized, does FEMA use any kind of standard amount
23 to determine or standard list to determine what individuals
24 can be compensated?

25 A Yes. Our pricing is made up by RSMeans. It's a

1 construction calculation that calculates the price of certain
2 items according to measurement location.

3 Q Okay. I'm handing you -- or I just handed you Exhibits
4 No. 16 and 17 for identification. Can you tell the jury what
5 Exhibit No. 16 is?

6 A It's the comment report from the events log in the file.
7 This one?

8 Q No, I'm sorry. It's Exhibit No. 16. And I have too many
9 pieces of paper in front of you so let me take some of these
10 away to simplify things. Here's Exhibit 16 and 17 and let the
11 record reflect that I'm retrieving the other government
12 exhibits at this time.

13 A This is fair market rent for 2011 for the county of
14 Jasper.

15 Q And what is Exhibit No. 17?

16 A This is the same thing. This is in our files. This is
17 in our disaster setup. It just lists the bedroom fair market
18 rates for each county in the declaration.

19 Q Okay.

20 MR. MOHLHENRICH: Move to admit Exhibits No. 16 and
21 17.

22 MR. RISLEY: No objection, Your Honor.

23 THE COURT: Government's Exhibit 16 and 17 will be
24 admitted.

25 MR. MOHLHENRICH: I'm publishing to the jury once

1 again the page from Exhibit No. 27 that the defendant
2 submitted to FEMA as a list of the personal property that he
3 claims to have lost.

4 Q (By Mr. Mohlhenrich) Did you take this -- the property
5 listed on this exhibit and determine what items of property
6 would be compensable and how much the defendant would have
7 received?

8 A Yes. Based on the appeal letter that was received, I
9 calculated what he could have been eligible for had he proven
10 occupancy and it was verified by the inspection.

11 Q What amount would that have been?

12 A It was just over \$5,000 including two months' rent at
13 fair market rate which was \$4,000 for the personal property
14 and the rest of it would be the rent.

15 Q A little bit over 5,000?

16 A Like \$5300, something like that.

17 Q That number is a little bit different than what I had
18 heard before. Is there something that might refresh your
19 recollection as to exactly what that number is, perhaps an
20 email that you sent about that very subject?

21 A Yeah, but I don't have it.

22 Q Handing the witness --

23 A Too much to remember.

24 Q -- a document. Could you look that over --

25 A Yes.

1 Q -- and look up when your recollection has been refreshed
2 and I'll take that back from you.

3 A It was 42 --

4 Q Don't testify because we have rules of evidence. But if
5 you can look and see if your recollection is refreshed by that
6 document and then if you can -- I'm retrieving the exhibit
7 from the witness. If you can tell the jury how much that was?

8 A \$4200 for the personal property and it was
9 \$5100-something for the total.

10 Q Okay. Thank you.

11 Regarding the definition of a primary residence and
12 what it's considered to be, could you tell the jury what FEMA
13 considers to be a primary residence?

14 A A primary residence --

15 MR. RISLEY: Objection. Approach?

16 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING PROCEEDINGS
17 WERE HAD:)

18 MR. RISLEY: My objection would be that there is a
19 specific Code of Fed Reg, 44 CFR 206.211 defines primary
20 residence for the code, and I'm not sure what she's going to
21 testify to but that would be the best evidence, not what she
22 testifies is her understanding of it. So I would object to
23 her providing her definition of it other than what is in the
24 Code of Federal Regulations for FEMA.

25 THE COURT: What's your position?

1 MR. MOHLHENRICH: I can certainly hand those
2 exhibits to the witness and have her admit them.

3 THE COURT: All right. Do it.

4 MR. MOHLHENRICH: Thank you.

5 (PROCEEDINGS RETURNED TO OPEN COURT:)

6 Q (By Mr. Mohlhenrich) I'm handing you Government's
7 Exhibits No. 7 and 8. Could you please look at those and
8 tell me what they are?

9 A Exhibit 7 is a CFR Code of Federal Regulations that can
10 be found anywhere, library, anywhere. It's open to anybody to
11 read. It's our codes that we go by, the definitions, housing,
12 assistance, what assistance means. It's just our law.

13 Q Those are the CFRs that FEMA uses?

14 A Correct.

15 MR. MOHLHENRICH: Move to admit Government's Exhibit
16 No. 7 and 8.

17 MR. RISLEY: Could I see 8 real quick? Sorry.

18 THE WITNESS: No. 8 is just eligibility.

19 MR. RISLEY: No objection, Your Honor.

20 THE COURT: Government's Exhibits 7 and 8 will be
21 admitted.

22 Q (By Mr. Mohlhenrich) Once again now, what does FEMA
23 consider to be an individual's primary residence?

24 A It's a home that you occupy more than six months out of
25 the year.

1 Q Can it also be a place where someone is living if they
2 had been there for less than six months?

3 A Possibly.

4 Q Under what circumstances?

5 A You just moved in.

6 Q Thank you.

7 A But you have to have proof is the main thing.

8 Q Thank you.

9 And, finally, if Scott Bradley Olsen had managed to
10 prove that he had just moved into 2305 Virginia Avenue, would
11 FEMA have paid out money in the amount that you just testified
12 to?

13 MR. RISLEY: Objection, Your Honor.

14 THE COURT: Objection overruled. I'm going to
15 permit it.

16 A There's some other things to take into account. He was
17 linked with other occupants of that address. That would have
18 to be resolved first. Was there a landlord/tenant
19 relationship? I'm speculating on what it would have been.
20 Had he been eligible, we would have had to get with the
21 landlord, was there a landlord/tenant relationship.

22 Q (By Mr. Mohlhenrich) Right. But I'm saying if he had
23 managed to prove it to FEMA's satisfaction that he had moved
24 in, would he have been paid money in the amount that you
25 testified?

1 A Personal property, probably.

2 Q And --

3 A The rent would be what we would be trying to find
4 landlord/tenant relationship. We pay one rental check per
5 household.

6 Q What was the personal property portion of that?

7 A Clothes, bedroom, kitchen, bath. That was basically it.

8 Q Approximately what amount?

9 A \$4200.

10 Q Thank you.

11 MR. MOHLHENRICH: Nothing further.

12 THE COURT: Thank you.

13 You may cross-examine.

14 MR. RISLEY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. RISLEY:

17 Q Hi, ma'am. My name is Brian Risley. I represent the
18 defendant. Have we ever met or talked before?

19 A No.

20 Q Okay. You testified earlier about Exhibit 20 which is
21 the application or registration for disaster assistance?

22 A Yes.

23 Q Do you recall that or do I need to bring it to you?

24 A I think I recall it.

25 Q Okay. This is the exhibit you previously discussed was

1 Mr. Olsen's application for assistance?

2 A Yes.

3 Q And I think your testimony was that would have been
4 filled out one of three ways, either he called online or
5 phoned it in or met with somebody and they keyed in the
6 information; is that correct?

7 A Possibly, yes.

8 Q Okay. I believe your prior testimony was that with
9 regard to the address he listed under No. 8, under the damaged
10 property he listed 2305 Virginia; is that correct?

11 A Correct.

12 Q But he also listed a mailing address of 410 South Wall?

13 A Yes.

14 Q And when it said, "Is the address listed in No. 8 your
15 primary residence," the answer was no?

16 A Correct.

17 Q Is that correct?

18 A Correct.

19 Q I believe you also testified that there was procedures he
20 would be provided that would tell him how to change his
21 application; is that right?

22 A Well, he would get help after a disaster. The
23 applicant's guide, you know, that kind of gives you
24 instructions on what to do. But in that guide it also states
25 that secondary homes are not addressed.

1 Q But my point is I think the FEMA Applicant Assistance
2 Document, Help After a Disaster, is that the document that
3 helps explain if you need to change an application or things
4 of that nature?

5 A Right.

6 Q To your knowledge was this application ever changed?

7 A Was it ever changed? No.

8 Q So Mr. Olsen never came in and said, "We need to change
9 the address listed in No. 8 as primary residence to yes"?

10 A No, but see what you have there is the original
11 registration. That doesn't change. That's your original.
12 That's what you said when you registered. Now, can it be
13 changed? Yes. But it would be changed through comments and
14 contacts and letters going out to him. We would not go back
15 to the original registration and change anything on that.
16 That's a record.

17 Q All right. So whatever the comments say regarding the
18 change of residence, that's what they would be?

19 A Correct.

20 Q Okay. You testified earlier, though -- you testified
21 about the inspector. Do you remember who the inspector was in
22 this case?

23 A No.

24 Q If I told you it was Mark Parr, does that name ring a
25 bell?

1 A No. We don't know the inspectors.

2 Q Do you recall during your previous testimony on direct
3 testifying about the comments made by the inspector?

4 A Right.

5 Q That was on June 21st of 2011?

6 A I believe so. Correct.

7 Q And, again, during that time it's listed that it's -- it
8 states not primary residence; is that correct?

9 A Correct.

10 Q And it said the app did not reside at DD at the time of
11 the -- what is DR?

12 A Disaster -- Damaged Residence.

13 Q So that's what the applicant told the inspector at that
14 time?

15 A Right.

16 Q That was three or four weeks after he filled out the
17 application; is that correct?

18 A Not sure exactly the time frame.

19 Q But June 21st, May 26th, so three or four weeks?

20 A Uh-huh.

21 Q That testimony is consistent with that's not his primary
22 residence; isn't that true?

23 A Right.

24 Q Okay. Have you ever seen pictures of 2305 Virginia?

25 A Yes.

1 Q All right. Do you know it's a red house?

2 A I don't recall what color it was. I just took a glance

3 at it. That's not normally something I see.

4 Q But it was a house?

5 A Yes.

6 Q The notes made on July 9th referencing statements that

7 apparently Mr. Olsen made to Eva McDonald Russo keeps talking

8 about he moved into a rental apartment, things of that nature.

9 Do you see that?

10 A Yes.

11 Q Do you know why it says apartment?

12 A No.

13 Q So it's possible either he got it wrong or she got it

14 wrong?

15 A Possible, yes.

16 Q You have no way of knowing?

17 A Correct.

18 Q You also know that Wall Street actually is an apartment?

19 A Said what?

20 Q His address on Wall Street actually is an apartment?

21 A Yes, I saw that part of it.

22 Q Again, it's possible it could be a mistake on somebody's

23 end?

24 A Yes.

25 Q And the letter he submitted talks about a white house

1 that he had rented; do you remember that?

2 A No.

3 Q The letter of June 9th.

4 There in the second line he said, "Co-renting a
5 white, single-family home"; is that correct?

6 A Yes.

7 Q You never personally spoke to Mr. Olsen at any time; is
8 that correct?

9 A No.

10 Q Now, you have no idea whether or not he lost any personal
11 property during this tornado?

12 A No.

13 MR. RISLEY: Thank you.

14 THE COURT: Redirect?

15 MR. MOHLHENRICH: None, Your Honor.

16 THE COURT: May this witness be excused?

17 MR. MOHLHENRICH: Yes, she may.

18 THE COURT: Thank you.

19 Do you have another witness? We've only been going
20 an hour and 15 minutes.

21 MR. MOHLHENRICH: The government would request a
22 brief break, Your Honor.

23 THE COURT: Okay. Let's take a short recess.

24 (Court reads recess instruction to the jury.)

25 THE COURT: Let's take 15 minutes, please.

1 Everyone please rise while the jury recesses.

2 (Court stands in recess at 2:20 p.m.)

3 (Jury enters courtroom at 2:39 p.m.)

4 THE COURT: Please call your next witness.

5 MR. MOHLHENRICH: Government next calls Mr. Mark
6 Parr.

7 MARK PARR, GOVERNMENT WITNESS, SWORN:

8 DIRECT EXAMINATION

9 BY MR. MOHLHENRICH:

10 Q Good afternoon, Mr. Parr. Could you please tell the jury
11 who your employer is or what your job is?

12 A I'm a contractor with Parsons Brinckerhoff and my job is
13 to do federal disaster inspections.

14 Q You're actually an independent contractor, aren't you?

15 A Yes, I am.

16 Q How long have you been an inspector?

17 A Seventeen years.

18 Q And all of that was doing inspections for FEMA?

19 A Yes.

20 Q And what are your duties and responsibilities as an
21 inspector?

22 A Basically to go out and do the inspections for the
23 applicants.

24 Q What's the purpose of the inspections?

25 A To possibly get the applicants grant money to help them

1 to rebuild their personal property and amenities.

2 Q How many disasters have you been to in the course of
3 your -- how long did you say you were doing it?

4 A Seventeen years. Just over a hundred.

5 Q Just over a hundred. And did you -- how are you
6 compensated?

7 A By the inspection.

8 Q Per inspection. Does it matter whether you recommend
9 that they receive money or not receive money?

10 A No.

11 Q It's just a flat fee?

12 A Yes.

13 Q Now, what is the normal procedure when you get an
14 inspection ordered? What do you normally do?

15 A When they get the inspections to me and after downloading
16 it into my work computer, it's got the names, addresses and
17 phone contact numbers of the applicants. I call them and set
18 up the appointments.

19 Q Okay. And in conducting an inspection, you need to make
20 a determination as to whether something is a primary residence
21 for an individual. Why is that important?

22 A Well, because there's different awards for those type of
23 inspections. I cover the grant program which typically
24 doesn't cover non-permanent.

25 Q Now, you don't have any specific recollection of

1 conducting an inspection with Mr. Scott Olsen, do you?

2 A No.

3 Q Do you remember him seated over there at counsel table?

4 A No.

5 Q But have you reviewed the FEMA records in connection with
6 this inspection?

7 A Some, yes.

8 Q And you did conduct that inspection?

9 A Yes.

10 Q And I'm showing you Exhibit No. 22. That's -- that is
11 the first page of a FEMA contacts report. Could you please
12 turn to the entry for June 21st of 2011 where it says
13 Inspector Comment?

14 A Okay.

15 Q Is that information that you would have personally input
16 into the FEMA system?

17 A Yes. It's got my inspector ID number.

18 Q Your inspector ID number. What is that?

19 A P01265.

20 Q What comments did you place in the system regarding the
21 June 21st, 2011, inspection?

22 A The not primary residence comment, which is required for
23 those types of inspections, and then some general information
24 here about what the applicant was concerned about. Under that
25 not primary residence, that would be grant program that FEMA

1 still would like to know.

2 Q What did you record?

3 A As far as comments out?

4 Q Yes.

5 A Okay. "Applicant did not reside at DD at time of
6 inspection -- " or time of DR. "Temporary storage,
7 self-employed business items equals cameras, film, movies,
8 DDA," which is damaged dwelling address. "App stated no
9 damage to primary residence equals mailing address."

10 Q Okay. Now, when you say, "App stated no damage to
11 primary residence equals mailing address," is that -- would
12 you have made that entry based on a comment that the applicant
13 made to you?

14 A Yes. Or a question I would have asked him, yes.

15 Q Based on the information provided, self-employed,
16 business item, cameras, film, movies at damaged dwelling
17 address and no damage to primary residence, would you have
18 conducted a full inspection of the property?

19 A No.

20 Q Now, had an applicant stated that they were moving into a
21 place and had lost personal property, would you have handled
22 the inspection differently?

23 A That's a possibility. I would have consulted the
24 guidelines at that point.

25 Q Thank you.

1 MR. MOHLHENRICH: Nothing further.

2 THE COURT: Thank you.

3 You may cross-examine.

4 MR. RISLEY: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. RISLEY:

7 Q Afternoon. My name is Brian Risley. I represent the
8 defendant. Have we ever talked before today?

9 A No.

10 Q Just right now?

11 A No.

12 Q And as part of your process in this, would you have
13 reviewed the application filled out by Mr. Olsen?

14 A No, just what I received in my computer that was
15 downloaded to me. Is that what you mean as far as the
16 addresses and things?

17 Q Yes.

18 A Yes.

19 Q So if he filled out an application stating that 2305
20 Virginia was not his primary residence, you wouldn't know
21 that?

22 A Well, I -- I don't get all the background information on
23 the application. I get the damaged dwelling address and I get
24 mailing address, basically, and phone contact number. That's
25 about the general information.

1 Q Do you remember what his mailing address was?

2 A No, I don't.

3 Q If I show you the application, might that refresh your
4 recollection as to his mailing address?

5 A It's a possibility. It's been approximately two years
6 ago but -- it doesn't. I can't recall.

7 Q Okay. You weren't shown this prior to talking to
8 Mr. Olsen?

9 A No.

10 Q How did you -- did you see him face-to-face or was it
11 over the phone?

12 A It would have been face-to-face. We were out at the
13 site, yeah.

14 Q At 2305 Virginia area?

15 A The damaged dwelling address. The damaged dwelling
16 address, yeah.

17 Q Just so I'm clear, he told you that was not his primary
18 residence?

19 A Yeah. I would have to ask that question.

20 Q He told you he had a different primary residence?

21 A It would have been asked -- by the comment there I would
22 have asked him about the mailing address, if that was his
23 primary residence or he could have said that the -- a
24 different address was his primary and it would have been the
25 mailing address.

1 Q But your note, "App stated no damage to primary
2 residence," you would have took that as his mailing address?

3 A Because then I put the "equals mailing address" on there,
4 yeah. That showed it was a mailing address that I questioned
5 him about.

6 Q You were at 2305 Virginia and there was obviously damage
7 there, correct?

8 A Yes.

9 Q But he told you that was not his primary residence?

10 A That's what the comments suggest.

11 Q That would have been per this June 21st, 2011?

12 A Yes.

13 Q Thank you.

14 MR. MOHLHENRICH: No redirect.

15 THE COURT: May this witness be excused?

16 MR. MOHLHENRICH: Yes, Your Honor.

17 THE COURT: Thank you, Mr. Parr. Thank you for your
18 attendance. You're free to go.

19 Call your next witness.

20 MR. MOHLHENRICH: Government calls Special Agent
21 Matt Niezgoda, please.

22 MATTHEW NIEZGODA, GOVERNMENT WITNESS, SWORN:

23 DIRECT EXAMINATION

24 BY MR. MOHLHENRICH:

25 Q Special Agent Niezgoda, can you please tell the jury what

1 you do for a living?

2 A Yes. I'm a special agent with the Department of Homeland
3 Security, Office of Inspector General, Chicago field office.

4 Q We'll try not to hold the Chicago part against you.

5 Is it part of your job to travel around the country
6 in certain regions helping with investigations?

7 A Yes. We're responsible for eight states in the Midwest.

8 Q And would that include the Western District of Missouri?

9 A Yes.

10 Q Were you the lead case agent on this particular
11 investigation?

12 A Yes, I was.

13 Q And in connection with those duties, was there ultimately
14 an indictment of Mr. Olsen?

15 A There was.

16 Q And did you place him under arrest?

17 A Yes. I arrested Mr. Olsen May 15th of 2012.

18 Q Now, following his arrest, did you interview Mr. Olsen?

19 A Yes, I did.

20 Q And can you please describe for the jury what procedure
21 you used to interview him?

22 A Yes. Initially I advised Mr. Olsen of his Miranda rights
23 since he was under arrest. Mr. Olsen agreed to waive his
24 rights and answer questions and initially I presented
25 Mr. Olsen with several documents from his FEMA file which

1 included his application, one of the declarations and release
2 and several of the handwritten and typewritten documents he
3 had submitted to FEMA.

4 Q And what did you do next?

5 A After Mr. Olsen acknowledged that he had submitted these
6 to FEMA, that he recognized them, I confronted him with the
7 fact that I had spoken to the owners of 2305 Virginia Avenue
8 previously and they had never heard of him or any individual
9 named Dean Richey.

10 Q What was his reaction to that?

11 A Mr. Olsen did become agitated and made a comment to the
12 effect of he couldn't believe he'd been scammed.

13 Q Did he elaborate on that?

14 A He did. He went further into it. Initially we asked how
15 he had come to meet Mr. Richey and Mr. Olsen stated that he
16 had been contacted by a former roommate named Jasen Howard who
17 was inquiring about leasing a property together.

18 Q And what did he say happened?

19 A Mr. Olsen said he agreed to the proposal from Mr. Howard
20 and shortly before the tornado he and Mr. Howard went to meet
21 Mr. Richey at a house he described as the big white house near
22 the corner of 23rd and Virginia Avenue.

23 Q How did he say that he and Jasen Howard arrived at that
24 home?

25 A In a white Ford Econoline van, older model, which

1 Mr. Olsen's understanding was that Mr. Howard had borrowed
2 from a neighbor.

3 Q And what did he say he had with him in that white
4 Econoline van?

5 A All of the property on the list that he submitted to FEMA
6 of his list of losses.

7 Q And what items of property were on that list?

8 A There were several, from furniture items, camera, TV,
9 DVDs, several -- various household items.

10 Q And he claimed that those items were in the white Ford
11 Econoline van?

12 A Correct. I recall asking him what was in the van in
13 terms of property, if it was in fact what was on the list, and
14 he said yes.

15 Q And what did Mr. Olsen say happened when he arrived at
16 2305 Virginia?

17 A Mr. Olsen stated he intended to -- he arrived at 2305
18 Virginia Avenue with the intention of moving in that day;
19 however, when they got there, Mr. Richey informed him that the
20 property would not be vacant and ready for occupancy until
21 Saturday, which was the Saturday prior to the tornado.

22 Q So what did they do?

23 A According to Mr. Olsen, he and Mr. Howard left the van
24 they arrived in at that location with all the property in it
25 and just waited to get the go-ahead to move in.

1 Q So the story was that he left the van there parked on the
2 street?

3 A Correct.

4 Q How far away is his apartment on Wall Street from 2305
5 Virginia?

6 A I believe it's approximately 2 miles.

7 Q And at the time of your interview with him did Mr. Olsen
8 know the whereabouts of Mr. Richey or Mr. Howard?

9 A No, he didn't.

10 Q Did Mr. Olsen say whether he had ever been inside the
11 house that he believed that he was going to be leasing from
12 Mr. Richey?

13 A He said he had never been inside of it.

14 Q Okay. Regarding your -- did you make any attempts to
15 locate either Dean Richey or Jasen Howard?

16 A Yes, both of them.

17 Q Were you successful in locating Dean Richey?

18 A No.

19 Q What methods did you use in your attempt?

20 A Utilized databases that were available to me which
21 included FEMA's National Emergency Management Information
22 System which tracks disaster information from applicants as
23 well as various public websites such as Facebook, Google.

24 Q Did you speak with a Dean Richey?

25 A I did. I located a Dean Richey who was -- who I could

1 loosely associate to the Joplin area, more so Springfield,
2 though, and he spelled his last name R-I-T-C-H-I-E.

3 Q Was he the right guy?

4 A He was not.

5 Q Did any of the information that you gathered during your
6 search indicate any association between a Dean Richey and 2305
7 Virginia?

8 A No.

9 Q How about attempts to locate Jasen Howard, what did you
10 do?

11 A Similar search, again using databases available to me and
12 public websites.

13 Q And was that successful?

14 A No.

15 Q And did you uncover any information to indicate any
16 association between a Jasen Howard and 2305 Virginia Avenue?

17 A No. Can I add one more thing, too, for Richey?

18 Q Yes.

19 A There was one other attempt made to locate Dean Richey.
20 The email address that was located in Mr. Olsen's file, I
21 requested FEMA send an email to that address to see if they
22 would get a response and the message was returned as
23 undeliverable.

24 MR. MOHLHENRICH: Thank you. No further questions.

25 THE COURT: Thank you.

1 You may cross-examine.

2 MR. RISLEY: Thank you.

3 CROSS-EXAMINATION

4 BY MR. RISLEY:

5 Q Hello. I'm Brian Risley. I think we just met today; is
6 that correct?

7 A Yes, sir.

8 Q And did not talk prior to that; is that correct?

9 A We did not.

10 Q Regarding first your efforts to search for Mr. Howard,
11 did you in fact ever find any information to verify whether
12 that was a real person or not?

13 A I did -- information I found seemed to verify there is a
14 Jasen Howard, I just couldn't physically locate him.

15 Q Tell us how you realized there was an actual Jasen
16 Howard.

17 A According to my search and according to my interview with
18 Mr. Olsen, I recall he told me that he and Mr. Howard had
19 previously leased a property around the 5th and Moffet area in
20 Joplin, Missouri. Using that general area, I found a Jasen
21 Howard that had lived at -- I don't remember the exact address
22 but somewhere in the 500 block of Moffet which seemed to
23 indicate there was a real Jasen Howard.

24 Q The difference may have been how his first name was
25 spelled; is that right?

1 A Correctly. I was initially working under the assumption
2 it was J-A-S-O-N and the Jasen Howard it appears I was seeking
3 actually spells his name J-A-S-E-N.

4 Q All right. You've reviewed the application known as
5 Exhibit 20, the application Mr. Olsen filled out as a part of
6 this; is that correct?

7 A Yes, it is.

8 Q Do you agree that Paragraph 12 says that, no, it's not
9 his primary residence, that being 2305 Virginia?

10 A That was the initial information he gave, yes.

11 Q You also just heard Mr. Parr's testimony. In fact, you
12 questioned him during the course of your investigation to
13 confirm his testimony regarding the interview with Mr. Parr
14 and Mr. Olsen on June 21st; is that correct?

15 A That's correct.

16 Q Based on information you received, Mr. Olsen told
17 Mr. Parr that was not his primary residence; isn't that
18 correct?

19 A He did, yes.

20 Q And other than the letters that had been submitted,
21 anything else to -- the letters -- you're basically taking the
22 letters that Mr. Olsen submitted to form the basis of this
23 charge; is that correct?

24 A It's not just the letters. It's also the timing of them,
25 the submissions.

1 Q But the letters don't say this is my primary residence,
2 do they?

3 A In my experience in conducting FEMA investigations, that
4 was my assumption is that he was attempting to prove it was
5 his primary residence.

6 Q Again, words *primary residence* appear nowhere in his
7 letters, correct?

8 A The actual words do not, no.

9 Q He never changed his application?

10 A No.

11 Q The information he provided to Mr. Parr on June 21st was
12 the same information he had filled out in the application on
13 May 26th?

14 A I would say that's correct, yes.

15 Q Regarding primary residence?

16 A Yes. Yes.

17 Q He never denied the fact that he had a different address
18 or mailing address on Wall Street; isn't that correct?

19 A No, he never denied that.

20 Q As we sit here today, you have no idea whether or not he
21 lost property on May 22nd?

22 A I do not.

23 MR. RISLEY: Thank you. That's all I have.

24 THE COURT: Redirect?

25 MR. MOHLHENRICH: Brief redirect.

1 REDIRECT EXAMINATION

2 BY MR. MOHLHENRICH:

3 Q Mr. Olsen did try to convince FEMA that he had moved into
4 the property, didn't he?

5 A Yes.

6 Q And you reviewed evidence of that with Mr. Olsen, didn't
7 you?

8 A I did.

9 Q That evidence included this letter which is in evidence
10 as Exhibit 27. And could you read that letter to the jury,
11 please?

12 A "I, Scott Olsen, this statement accompanies my rental
13 agreement for the home at 2305 Virginia in Joplin, Missouri.
14 I entered into a lease on 5/20/11 moving my personal property
15 in on the 21st of May. The property manager, Dean Richey,
16 signed the document and gave me the keys. The address and
17 contact info for him and the owner were in the house when the
18 tornado struck. All I have is the rental agreement receipt.
19 The house at 2305 Virginia has also never been inspected by
20 FEMA. There is/was no rental insurance on personal property.
21 Attached is a list of personal property lost." Then his
22 contact information follows.

23 Q And attached to that letter was a list of personal
24 property. Did you share that list of personal property with
25 Mr. Olsen when you interviewed him?

1 A Yes, I did.

2 Q And is all of that personal property what he claimed fit
3 into a single white Ford Econoline van?

4 A Yes. I recall asking him if the list of property he
5 provided FEMA was what he lost in the van and he said yes.

6 Q A dinette set with four chairs, a hutch, two dressers,
7 one desk, a coffee table, a couch and a loveseat, a 26-inch
8 flat screen TV with monitor, a queen bed and frame, a
9 nightstand. All of that?

10 A That's correct.

11 Q And this is a copy of the lease that Mr. Olsen submitted
12 to FEMA. Did you share that with Mr. Olsen when you
13 interviewed him?

14 A I did.

15 Q And did he confirm that he had submitted that to FEMA?

16 A Yes.

17 Q And that is purportedly a Dean Richey signature on that
18 lease?

19 A That's correct.

20 Q Okay. And then there was another submission on July 20th
21 that Mr. Olsen made to FEMA. Did you share that with
22 Mr. Olsen when you interviewed him?

23 A Yes. If there were any duplicate documents, I didn't
24 include those.

25 Q But specifically referring to the cover email supposedly

1 from Dean Richey at the email address, that didn't work?

2 A That's correct.

3 Q Could you read that to the jury, please?

4 A "Mr. Olsen, sorry to hear about your trouble with FEMA.
5 I have enclosed a letter as an attachment using MS Word. I
6 hope this satisfies everyone since I moved out of Missouri
7 since most of the properties I was looking after were
8 destroyed in the tornado. Best of luck to you, Richey."

9 Q Did he confirm he had provided that to FEMA?

10 A Yes, he did.

11 Q And this letter purportedly from Dean Richey, could you
12 read that to the jury, please?

13 A Certainly.

14 MR. RISLEY: Judge, I'd object. Could we approach?

15 THE COURT: It's already been read once.

16 MR. RISLEY: I was going to object as cumulative.

17 THE COURT: Okay.

18 MR. MOHLHENRICH: Well, it might be -- I request a
19 sidebar, Your Honor.

20 THE COURT: All right.

21 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING PROCEEDINGS
22 WERE HAD:)

23 MR. MOHLHENRICH: I don't think it's necessarily
24 cumulative because the government plans to ask the agent
25 whether Mr. Olsen offered any explanation for the discrepancy

1 between that letter and the statement that he was giving to
2 the agent at the time of the interview.

3 MR. RISLEY: I think he can ask that without
4 rereading the whole letter he just read to them 45 minutes
5 ago.

6 THE COURT: He could but since it's the crux of the
7 case, I'll overrule it and let him read it.

8 (PROCEEDINGS RETURNED TO OPEN COURT:)

9 Q (By Mr. Mohlhenrich) Once again, Special Agent
10 Niezgoda, could you read the letter which you confronted the
11 defendant with at the time of the interview?

12 A To Whom it May Concern, My name is Dean Richey and for
13 the past several years I have worked for numerous homeowners,
14 property management companies and apartment complexes around
15 the Joplin, Galena and Baxter Springs area. I do maintenance,
16 repairs," I believe that says, "security and collection and
17 leasing. I have recently relocated to the Baxter Springs area
18 of Kansas. One of the properties I maintained was located at
19 2305 South Virginia Avenue in Joplin, Missouri. On the 20th
20 of May last I signed a lease agreement with a Mr. Scott B.
21 Olsen for the amount of \$375 per month with a negotiated
22 deposit amount of \$300. This is a reduced amount based on
23 cleaning and painting of two rooms that Mr. Olsen agreed to
24 undertake. The monies were received by me on the 20th and the
25 keys were given to Mr. Olsen. The lease was to be for one

1 year and occupancy prior to the 1st of June was authorized as
2 long as utilities were transferred into Mr. Olsen's name no
3 later than May 31st. I returned to the property on the 21st,
4 Saturday, to check on the progress of the painting and
5 witnessed Mr. Olsen moving his personal property into the
6 residence. The residence was subsequently destroyed on Sunday
7 the 22nd of May, 2011, by the F5 tornado that struck Joplin.
8 I hope this clarifies Mr. Olsen's resident status and monetary
9 arrangements surrounding the rental. Respectfully," says Dean
10 Richey at the bottom, I believe.

11 Q Did Mr. Olsen offer any explanation as to why the letter
12 that he provided to FEMA said that he was moving in and had
13 moved his property in, had keys and he told you he had never
14 seen the inside of the place? Did he offer any explanation
15 for that at all?

16 A No.

17 MR. MOHLHENRICH: Nothing further.

18 THE COURT: Recross.

19 RECROSS-EXAMINATION

20 BY MR. RISLEY:

21 Q According to the letter you just read, he didn't write it
22 either; apparently Dean Richey wrote it, correct?

23 A According to the signature on it, Dean Richey wrote it.

24 Q The letter that he submitted on June 9th talks about a
25 white house on the corner; isn't that correct?

1 A Yes.

2 Q 2305 Virginia is a red house just off the corner; isn't
3 that correct?

4 A I don't know its exact location relative to the corner
5 but there was also -- according to the pictures, there is
6 white paint on the house as well.

7 Q Mr. Pyle testified it was a red house.

8 A That is what Mr. Pyle said.

9 MR. RISLEY: Thank you. That's all I have.

10 THE COURT: Thank you. You may step down.

11 Call your next witness.

12 MR. MOHLHENRICH: Government next calls Myrtle Pyle
13 to the stand.

14 THE COURT: All right.

15 MYRTLE PYLE, GOVERNMENT WITNESS, SWORN:

16 DIRECT EXAMINATION

17 BY MR. MOHLHENRICH:

18 Q Good afternoon, Mrs. Pyle.

19 A Good afternoon.

20 Q Thank you for coming in.

21 Could you please tell the jury where you live now?

22 A Where I live at this time?

23 Q Yes.

24 A 814 Empire, Joplin, Missouri.

25 Q And did you live at 2305 Virginia before that?

1 A Yes, I did.

2 Q And did you live there at the time of the tornado?

3 A Yes.

4 Q Could you please tell the jury what happened to you that

5 day.

6 A Well, that particular afternoon my sister and I were --

7 we spent most of the afternoon on the front porch and our

8 weather sirens went off. We went inside, watched the TV for a

9 few minutes and it looked as if it was in Kansas, you know,

10 the weather, the Doppler. And the weather sirens went back

11 off so we figured we were pretty safe, so we went back and sat

12 on the front porch for quite some time and hollered over to

13 the neighbors who was watching the weather outside, too. Then

14 suddenly we heard the noise and we -- it sounded much like a

15 jet engine. We got inside and got to the basement and it hit

16 the house that quickly. So we rode it out in the basement

17 for about 30 minutes.

18 Q The house was destroyed as a result of the tornado?

19 A Pardon?

20 Q The house was destroyed as a result of the tornado?

21 A Yes, the house was destroyed.

22 Q How long had you lived there?

23 A About 23 years.

24 Q You and your husband owned it?

25 A Yes.

1 Q Who else lived in the house at the time?

2 A My sister had come -- moved from Arizona to live with us,
3 and her son.

4 Q Anyone named Jasen Howard?

5 A No.

6 Q Anyone named Scott Olsen?

7 A No.

8 Q Anyone by the name of Dean Richey have your permission to
9 show the house to anyone who might be leasing it?

10 A No.

11 Q Have you ever seen the gentleman seated over there in the
12 open collar shirt at defense table before?

13 A No.

14 Q Finally, thinking back to the two days before the
15 tornado, did you ever see a large white Ford Econoline van
16 parked on the street in front of your -- or near your
17 residence?

18 A No.

19 Q Did you ever see anyone standing out in front of or near
20 your residence gesturing at it and perhaps signing any papers?

21 A No.

22 MR. MOHLHENRICH: No further questions.

23 THE COURT: Thank you.

24 Cross-examination?

25 MR. RISLEY: No questions, Your Honor.

1 THE COURT: May this witness be excused?

2 MR. MOHLHENRICH: Yes, Your Honor.

3 THE COURT: Counsel?

4 MR. RISLEY: Yes, Your Honor.

5 THE COURT: Thank you, Ms. Pyle, for your
6 attendance. You're free to go.

7 THE WITNESS: Thank you.

8 THE COURT: Call your next witness.

9 MR. MOHLHENRICH: Your Honor, the government rests.

10 THE COURT: All right. Thank you.

11 Ladies and gentlemen of the jury, with the
12 government announcing they're resting, we need to take a short
13 recess for some procedural matters.

14 (Court reads recess instruction to the jury.)

15 THE COURT: We shouldn't be but 10 or 15 minutes.
16 Everyone please rise while the jury recesses.

17 (Jury exits the courtroom at 3:09 p.m.)

18 THE COURT: Thank you. Be seated.

19 Assumed you had an oral or written motion, something
20 to file.

21 MR. RISLEY: I do, Your Honor.

22 THE COURT: Okay.

23 MR. RISLEY: May I be heard?

24 THE COURT: Sure. Go ahead.

25 MR. RISLEY: Judge, we'd move for a judgment of

1 acquittal at the close of the government's case. I'll tell
2 you the first page just kind of goes through and lists off
3 blanket things, essentially that the information -- or the
4 evidence does not support all of the elements charged in each
5 of the offenses.

6 I would like the Court to review some case law I've
7 provided on pages 2, 3, and 4 specifically with regard to 18
8 U.S.C. 1001 which is Count 2. I'd also like to point out to
9 the Court before I get to this, first count is 18 U.S.C. 1040.
10 That statute was enacted in 2008 and best I can tell from my
11 research, there's only been one case that has -- at least in
12 the Court of Appeals that has addressed that statute
13 specifically. It's so new that that's all I could find.

14 THE COURT: When did you say it was enacted?

15 MR. RISLEY: The statute, I believe, is 2008.

16 THE COURT: Okay.

17 MR. RISLEY: And the case that I can tell the Court,
18 only case I could find that cites that particular statute is
19 *United States v. Hebron*, H-E-B-R-O-N, 684 F.3d 554. That's
20 from the Fifth Circuit in 2012. I have a copy if the Court
21 wants to review it. I'll represent that I don't think -- in
22 that case the defendant ultimately pled guilty and I don't
23 think the facts of that case are necessarily consistent with
24 this case but the reason I bring it up is that I am citing
25 several cases which I'd like to go over briefly with the Court

1 with regard to the making of a false statement and the
2 evidence that's required.

3 Several courts, including one in this jurisdiction,
4 that have, in fact, reversed convictions based on the lack of
5 evidence of a specific false statement. Here in this case
6 he's been charged with essentially one thing, stating 2305 was
7 his primary residence when, in fact, it was not. He hasn't
8 been charged with making up a list of items that was lost or
9 not lost, although I don't think they could prove that either.
10 But that's the only thing he's charged with. And in charging
11 that there are elements of 18 U.S.C. 1001 that require the
12 making of the statement, the falsity of such statement,
13 knowledge of the falsity of such statement, relevance of such
14 statement to the functioning of the federal department or
15 agency, and that the false statement was material.

16 My submission is the evidence shows that on at least
17 more than one occasion he said that wasn't his primary
18 residence. So the evidence before the Court is the
19 application submitted to the Court on May 26th, 2011, that
20 says that's not his primary residence, the evidence of Mark
21 Parr who's an investigator who says this defendant told him on
22 June 21st that was not his primary residence. Then there are
23 a couple letters that are into evidence which talk about
24 renting a residence but it doesn't say it's his primary
25 residence. So my argument to the Court is the evidence so

1 far, it's all the Court has before it, what the government
2 stated, is insufficient. *U.S. v Moses* has held and other
3 courts have adopted that saying the prosecution for false
4 statement under 1001 or under the perjury statutes cannot be
5 based on an ambiguous question where the response may be
6 literally or factually correct. Again, here he told him it
7 wasn't his primary residence. They may have read some letters
8 in which they inferred he was trying to say that was his
9 primary residence but that's not what the law I believe tells
10 this Court. And *Moses* goes on to state -- that's *U.S. v.*
11 *Moses*, 94 F.3d 182, says, "An indictment premised on a
12 statement which on its faces is not false cannot survive."

13 The case from the Eighth Circuit is *U.S. v Vesaas*,
14 V-E-S-A-A-S, 586 F.2d 101. Again, that's from the Eighth
15 Circuit 1978. It talks about a case and held that statements
16 taken during a deposition related to a federal inquiry that
17 led to charges. In that they held -- they said, "It may well
18 be held that the Petitioner's answers were not guileless but
19 were shrewdly calculated to evade. Nevertheless any special
20 problems arising from the literally true but unresponsive
21 answer are to be remedied through the 'questioner's acuity'
22 and not by a federal perjury prosecution."

23 The last thing I would want to point out, this is
24 talking about several cases, *U.S. v Hixon* which is 987 F.2d
25 1261, *U.S. v. Gahagan*, G-A-H-A-G-A-N, that's 881 F.2d 1382,

1 and *U.S. v Diogo*, 320 F.2d 898. They all state that "It is
2 incumbent upon the government to negative any reasonable
3 interpretation that would make the defendant's statement
4 factually correct."

5 Again, the evidence they presented to you -- to this
6 Court was an application where he says this is not his primary
7 residence.

8 THE COURT: Why do you think he applied and wanted
9 all that money? What do those two letters mean where he
10 listed out all that property?

11 MR. RISLEY: I understand.

12 THE COURT: What is it you want? How can he stand
13 there and say, "I want all this money," "Oh, well, well,
14 that's not my primary residence"?

15 MR. RISLEY: Again, I think -- my argument again to
16 the Court is that that gets into could they have charged him
17 with something else, perhaps.

18 THE COURT: Okay. That's a good point.

19 MR. RISLEY: But the only two counts they've charged
20 him with this are that this is not his primary residence.

21 THE COURT: Okay.

22 MR. RISLEY: I believe the evidence indicates that
23 they have not proven that.

24 THE COURT: Good point.

25 What's your response?

1 MR. MOHLHENRICH: The government's response is:
2 Nice try; however, the element states statement or
3 representation. And the government's position is that it has
4 made a submissible case that the defendant was attempting to
5 represent that 2305 Virginia was his primary residence, that
6 he was in the process of moving in. As the FEMA
7 representative, Connie Malone, testified, if someone had just
8 moved into a place, FEMA could consider it a primary
9 residence. The defendant submitted a letter -- the government
10 believes it's a blatant forgery -- from -- purportedly from
11 Dean Richey stating that he had seen the defendant, got the
12 keys, he was moving his property in. That's a false
13 representation, pure and simple. The government believes
14 there is a submissible case.

15 THE COURT: Thank you.

16 Response?

17 MR. RISLEY: I'd just rely on the previous argument.
18 I also state if the Court wants any copies of the cases I've
19 cited, I have those for the Court.

20 THE COURT: No. I'm going to deny your motion. I'm
21 going to give this to the jury. Do you want to put on any
22 evidence before it goes to the jury?

23 MR. RISLEY: I think yes but let me confirm.

24 THE COURT: Let's take a short recess. I'll check
25 with you. I think there is sufficient evidence to present

1 this question to the jury. Motion for acquittal at the close
2 of the government's case is denied.

3 MR. MOHLHENRICH: Thank you, Your Honor.

4 THE COURT: Court stands in recess.

5 (Court stands in recess at 3:17 p.m.)

6 THE COURT: Now, before we call the jury, is the
7 defendant going to testify?

8 MR. RISLEY: Yes, Your Honor.

9 THE COURT: All right. Then we need to make a
10 record.

11 MR. RISLEY: Yes.

12 THE COURT: Mr. Olsen, you want to step up.

13 Mr. Olsen, do you want to raise your right hand to
14 be sworn in to answer questions concerning your own decision
15 to testify. That's what I'm going to ask about.

16 All right. Swear him in.

17 (Defendant duly sworn by courtroom deputy.)

18 THE COURT: Do you want to start or do you want me
19 to ask?

20 MR. RISLEY: You can go ahead.

21 THE COURT: You're Scott Bradley Olsen?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You're the defendant in this case?

24 THE DEFENDANT: Uh-huh.

25 THE COURT: Your attorney just advised us that

1 you're preparing to testify; is that correct?

2 THE DEFENDANT: Yes, sir, it is.

3 THE COURT: We always make a record. Have you been
4 threatened or coerced or forced in any way to testify?

5 THE DEFENDANT: No, sir.

6 THE COURT: Are you testifying -- have you had
7 sufficient time to consult with your attorney to make this
8 decision that you want to testify?

9 THE DEFENDANT: On the decision to testify itself,
10 yes. I would kind of like to go over a few more things but I
11 don't know if that's in the Court's purview to allow me that.

12 THE COURT: I need to know if you've had enough time
13 to consult with your attorney to make the decision --

14 THE DEFENDANT: Yes, sir. Yes, sir.

15 THE COURT: -- to testify.

16 Again, have you been threatened in any way?

17 THE DEFENDANT: No, sir.

18 THE COURT: Or forced in any way by anybody to
19 testify?

20 THE DEFENDANT: No.

21 THE COURT: Do you have any questions you want to
22 ask your client?

23 MR. RISLEY: No, Your Honor.

24 THE DEFENDANT: We're fine.

25 THE COURT: All right. Anything you want --

1 anything you don't understand? You're about to testify and
2 after your attorney asks you questions, the government will
3 have an opportunity to cross-examine you. Do you understand
4 that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Are you satisfied with the
7 representation of your attorney to this point?

8 THE DEFENDANT: He has been very good.

9 THE COURT: Okay. All right.

10 MR. RISLEY: I did think of one question, Your
11 Honor.

12 THE COURT: All right.

13 MR. RISLEY: You have a medical condition that
14 involves your feet, correct?

15 THE DEFENDANT: Yeah, but my feet aren't bothering
16 me today. I'm having more problems with my blood pressure.

17 MR. RISLEY: You'll be able to walk up and back
18 without any problem?

19 THE DEFENDANT: Yes.

20 THE COURT: After questioning the defendant under
21 oath the Court determines that his decision to plead guilty
22 was entered into by him intelligently, knowingly and
23 voluntarily. The Court finds he's advised the Court and the
24 attorneys he's testifying of his own free will.

25 Bring in the jury and we'll move forward.

1 THE REPORTER: Judge, you said to plead guilty.

2 THE COURT: Oh, I'm sorry. I don't mean to plead
3 guilty. Heavens. His own decision to testify in this case.
4 I misspoke.

5 (Court stands in recess.)

6 (Jury enters the courtroom at 3:30 p.m.)

7 THE COURT: Reconvene from recess. The defense may
8 present their evidence.

9 MR. RISLEY: The defense would call Scott Olsen.

10 THE COURT: Mr. Olsen, step up here to be sworn in.

11 SCOTT B. OLSEN, DEFENDANT HEREIN, SWORN:

12 DIRECT EXAMINATION

13 BY MR. RISLEY:

14 Q Please state your name.

15 A I'm Scott Bradley Olsen.

16 Q Scott, what town do you currently reside? What town do
17 you currently reside in?

18 A I moved to Springfield, Missouri, about a month ago.

19 Q All right. Where did you live before that?

20 A I lived in Joplin, Missouri.

21 Q Okay. About how long did you live in the Joplin area?

22 A About nine years.

23 Q Okay. And where did you live before that?

24 A Seattle, Washington for four years.

25 Q Are you currently employed?

1 A No. I am -- I'm on medical disability, SSI.

2 Q And how long have you been on that?

3 A About 30 days.

4 Q Back in 2011 where were you living in Joplin?

5 A 410 South Wall, Apartment 23 in Joplin, Missouri.

6 Q How long did you live at that address?

7 A About three and a half years.

8 Q Did you live at that address all of 2011?

9 A Yes, sir, I did.

10 Q Okay. Was there ever a period of time where you planned

11 to move from that address?

12 A Yes, there was. Actually, two, but I was approached in

13 May of 2011 by an ex-roommate of mine who owed me money, was

14 trying to make it up, introduced me to someone.

15 Q What was his name?

16 A His name was Jasen Howard.

17 Q How long had you known Jasen?

18 A I met Jasen Howard in the summer of 2006 when we worked

19 at a company together.

20 Q Okay. And so where was this place at, this place you

21 were looking at?

22 A It was on the corner of 23rd and Virginia in Joplin.

23 Q Okay. And do you remember what time Jasen contacted you

24 relative to the tornado of 2011?

25 A It was a week before.

1 Q So pretty close in time to the events of the tornado?

2 A Yes.

3 Q Did you talk with anyone else about this residence?

4 A Yes. He introduced me to a gentleman he said was a
5 property manager by the name of Dean Richey.

6 Q Okay. Where did you meet with Mr. Richey?

7 A First time we met was a Hardee's restaurant. It was on,
8 I think, 18th and Main in Joplin.

9 Q Okay. And what did he -- what was your understanding was
10 going to happen after you met with Mr. Richey?

11 A He had like a realtor's book, pulled it out, showed me
12 some properties and one of them was within about five blocks
13 of there and it was the only one in his book that was even
14 close, so we drove over in his car, drove past the property
15 and then returned to the restaurant.

16 Q Okay. This house, was that on Virginia Street?

17 A Yes.

18 Q And did he tell you what the address was?

19 A He told me it was 2305 Virginia, South Virginia.

20 Q Did you ever go inside that residence?

21 A No, I did not.

22 Q Did you ever see the outside of that residence?

23 A Oh, yeah, several times.

24 Q What did it look like?

25 A It was a white corner house probably built back in late

1 '20s, early '30s.

2 Q Okay.

3 A Wood frame.

4 Q Did it have any red paint on it?

5 A Not one bit.

6 Q Did you see any house nearby with red paint?

7 A Yes, the house next door.

8 Q You saw a picture of Mr. Pyle's house today. Do you know
9 if that was the same house?

10 A It was not the house that I was shown.

11 Q I'm talking about the house next to the house you were
12 shown.

13 A Yes, that was the house next -- that was the second house
14 in from the corner on 23rd and Virginia.

15 Q Okay. What was your understanding of who was going to
16 live at this 2305 Virginia you were shown?

17 A Initially me, within a month, maybe a little less, Jasen
18 Howard. There was a couple of people that I worked with at
19 the Joplin Globe that were, well, pretty much in the same
20 financial state as I was, working part-time, and I figured
21 with three people in there our costs would be really low. It
22 looked like a pretty big-size house.

23 Q I was going to ask you, were you employed back in May of
24 2011?

25 A I was off work due to an injury but I was employed by the

1 Joplin Globe newspaper.

2 Q Okay. What was your understanding what you would pay
3 with regard to rent on this residence?

4 A Three seventy-five a month for the first year with a \$300
5 deposit.

6 Q Was that being split between all the parties that lived
7 there?

8 A Yes. Well, that didn't include the utilities. That
9 would have to be added in.

10 Q Okay. So did you ever sign a lease on this residence?

11 A I signed a temporary lease document. I wanted a full
12 lease at the time I actually physically took possession but I
13 had a receipt that I showed to my landlord at the time who was
14 a retired judge and he said it was fine.

15 Q This all occurred before May 22nd?

16 A Yes, sir, it did.

17 Q But you did not enter the residence prior to that time?

18 A I did not have the opportunity to.

19 Q Tell me about this property list and how it came to be
20 involved in this case.

21 A The property listed on there is what was left over from
22 the condominium that I had out at Loma Linda when I still had
23 my film company.

24 Q Was this property ever at 2305 Virginia or close to it?

25 A I saw some of my possessions in a white Econoline van

1 that Jasen Howard said belonged to a friend of his or his
2 roommate, I can't remember which one it was. He also advised
3 me that he had a pickup truck available for my dining room set
4 and bedroom set.

5 Q Did this property ever get moved into the residence?

6 A To the best of my knowledge, no. I had given the keys to
7 my storage unit and he was waiting on Mr. Richey to give him
8 the keys to the house but he kept saying there was still
9 people in the house, we can't get in.

10 Q Do you remember what day this was on?

11 A Last time I talked to Jasen was on the 21st of May.

12 Q And as we all know now, the tornado struck on May 22nd;
13 is that correct?

14 A That is correct.

15 Q All right. Did you complete an application with FEMA on
16 May 26th?

17 A Yes, I did.

18 Q What was the purpose in completing that application?

19 A I'd given all my money for the next month's rent to
20 Mr. Richey and I needed assistance getting temporary rent to
21 stay in the apartment that I already had.

22 Q All right. What about your property?

23 A I didn't know if I was going to have any chance of
24 getting compensation for that. It wasn't until after about
25 four conversations with FEMA that they said, "Yeah, go ahead

1 and file it. There's nothing wrong with filing. You might
2 get paid for it, you might not."

3 Q All right. This document has already been admitted into
4 evidence. Was this your FEMA application?

5 A Yes, sir, it is.

6 Q Do you remember how and when you filled that out?

7 A The initial assignment of a number was handled at The
8 Bridge in Joplin which is a youth center. All the different
9 agencies were there. You couldn't talk without a FEMA number.
10 I explained what my situation was to the caseworkers in the
11 tent and they assigned me a number.

12 Q Were you talking to somebody on the phone?

13 A No, it was in person. They had two or three tents set up
14 the south end of Joplin and most of the information was being
15 keyed in by FEMA employees on laptops.

16 Q Did you key in this information?

17 A No, sir, I did not.

18 Q Did you tell somebody this information that was keyed in?

19 A Yes.

20 Q Have you reviewed this application?

21 A Yes, I have.

22 Q Is all the information on this application accurate?

23 A Yes, sir.

24 Q At any point throughout this process did you ever tell
25 anyone to change anything on this application?

1 A No, sir.

2 Q Okay. Did you ever tell anyone that 2305 Virginia was
3 your primary residence?

4 A No, sir, I did not.

5 Q All right. You did submit some letters with regard to
6 the property you had lost and the rental agreement; is that
7 correct?

8 A Yes, I did.

9 Q You were doing that based on requests from FEMA -- or why
10 were you doing that?

11 A Basically it was they had requested more information
12 to -- how did they put it -- to verify my claim. And they
13 told me -- they gave me a booklet on what you could file, what
14 you could do, and they said, "Well, this is what we're going
15 to need to go to the next step and process the claim because
16 right now there's not enough information." So I said okay
17 and I sent the first letter in. I can't remember what the
18 first one was. I think that was just the declaration that I
19 intended to move into the property, put money down.

20 Q Did you follow up with the lease that you had been
21 provided?

22 A Yes. I -- the FEMA office six that was referred to in
23 earlier testimony was a Lutheran church about a block from the
24 apartment that I was residing. So whenever I got a call, a
25 phone number -- a phone call or a letter from FEMA, I'd go

1 over to the Lutheran church and talk to the caseworkers there.
2 It was always somebody different. I never got the same person
3 twice. Every time I'd bring all the stuff that I had before
4 plus whatever they had requested now. So we were adding onto
5 this file with different caseworkers over a couple of months.

6 Q All right.

7 MR. RISLEY: Thank you. That's all I have.

8 THE COURT: Thank you.

9 Cross-examination?

10 MR. MOHLHENRICH: Yes, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. MOHLHENRICH:

13 Q Good afternoon, Mr. Olsen.

14 A Good afternoon, sir.

15 Q So as you told Special Agent Niezgoda when you were
16 interviewed, you now believe that you were the victim of a
17 rental scam by Dean Richey and perhaps Jasen Howard as well?

18 A Yeah. I've done extensive research on the Internet and
19 there are hundreds of cases exactly like this. It's
20 unfortunate that I've had to wait two years to get to talk
21 about this.

22 Q As part of this rental scam Mr. Howard said that there
23 was this opportunity to rent room at 2305 Virginia?

24 A Yeah, white house on the corner. It was purported to be
25 2305 Virginia.

1 Q And on the basis of that you then met with Mr. Dean
2 Richey or a person who represented himself to be Dean Richey
3 and Mr. Richey showed you the property and --

4 A He showed me photographs first and then the property
5 afterward.

6 Q And you indicated that you were interested in moving in?

7 A Yes, sir. It was a really good deal.

8 Q Okay. Now, following that you signed a lease or a
9 abbreviated lease form?

10 A Yes, sir.

11 Q Where were you when you signed the lease?

12 A We were at the Hardee's restaurant at 18th and Main in
13 Joplin. That's where the actual money transfer took place.

14 Q What date was this?

15 A It was either the 19th or the 20th.

16 Q And this part of Exhibit 27 right here that I'm about to
17 publish up on the ELMO, this is the lease that you signed --
18 that you and Dean Richey signed?

19 A Yes, sir.

20 Q And you witnessed Dean Richey sign that in front of you?

21 A Yes, sir. And is there a witness statement in there?

22 No.

23 Q Does not appear that there is.

24 A Okay.

25 Q You didn't sign Dean Richey's name to that, did you?

1 A No, sir, I did not.

2 Q Why isn't Jasen Howard on the lease?

3 A He wasn't scheduled to move in for three to four weeks
4 and until he actually did and we had a full rental agreement,
5 it was just going to be between me and Dean Richey now.

6 Q And the utilities were going to be in Jasen Howard's
7 name, though?

8 A Most likely. I still owed money to Empire District
9 Electric. Once the transfer of the keys took place, then
10 technically Jasen was going to go down with me on the 23rd.
11 He probably would have had to co-sign for them.

12 Q Didn't you say that Jasen Howard had terrible credit?

13 A He had pretty good credit with the local utility
14 companies, though. Better than mine. Because when we lived
15 together all the utilities were in my name and when he walked
16 out on the lease, I ended up spending a lot of time paying it
17 off.

18 Q Now, how did the discussion about painting come up? You
19 got a break on the security deposit based on your willingness
20 to paint rooms.

21 A In 2010 when Jasen returned to Joplin from wherever he
22 had been -- he tends to get in and out -- my place at 410 Wall
23 was just a mess and I was getting ready to start painting. I
24 told him he could work off part of the money he owed me if he
25 helped me paint and patch. And so when he offered the deal in

1 the apartment, I said, "Well, I can't do a lot of work right
2 now, got a bad hip, using a cane, can you do the painting and
3 stuff and in exchange for that I'll take some more money off
4 your bill," and he agreed.

5 Q That was the painting to 2305 Virginia?

6 A Yes.

7 Q And just to be clear, you'd never been inside 2305
8 Virginia?

9 A No, I had not.

10 Q What rooms were going to be painted?

11 A There were two rooms toward the back of the house. The
12 house sat kind of on a corner and it was in the back, it was a
13 side driveway and there were like two bedrooms and a kitchen,
14 I think.

15 Q But you'd never seen the inside of the house?

16 A No. I saw the outside of the house from the street and
17 from the side and photographs of it in Mr. Richey's little
18 real estate book.

19 Q Now, you had all your property then placed in a van, the
20 property --

21 A I had all my property in storage. The keys given to
22 Mr. Howard, and I saw one van load of my property. Now, I had
23 stated at least once it was going to take at least three trips
24 to get all my stuff out of there but --

25 Q And that includes all of the property that you listed, a

1 dinette set with 4 chairs, a hutch, two dressers, a desk, a
2 coffee table, couch and loveseat, 26-inch flat screen TV
3 monitor, queen bed and frame, nightstand, two suits,
4 miscellaneous clothes, video camera, tripod, Pentium 3
5 computer?

6 A Yes, things that I purchased at FFO, Office Depot and an
7 antique store in Neosho.

8 Q And that property was in the van when you pulled up to
9 2305?

10 A Part of my stuff was in the van. The smaller stuff was
11 in there. The large furniture he also told me that he had
12 somebody that had a pickup truck. I said, "You're going to
13 need it."

14 Q So some of this property on this list was not in the van
15 and wasn't in 2305 and you're claiming to FEMA --

16 A I didn't know if it was in 2305 because I never went in
17 the building.

18 Q But you're submitting a list to FEMA saying that that
19 property was lost in the tornado?

20 A Yes, sir, I am.

21 Q You don't know whether that's the case?

22 A I don't know where it went after the last time I saw it,
23 which was after I gave -- before I -- well, the last time I
24 gave the keys to Jasen Howard.

25 Q Well, you left the van there on the street. You lived 2

1 miles away. Did you and Jasen Howard walk back to your
2 apartment?

3 A Jasen Howard and the van remained there. There's a bus
4 stop two blocks off. I took the last bus on Saturday back to
5 my apartment. I wasn't about to try walking 2 miles, not as
6 bad as I felt. I didn't like driving around with Jasen
7 because as far as I knew, he hasn't had a driver's license in
8 six years.

9 Q So let me get this straight. You meet a guy at a
10 Hardee's that you didn't know before, you agree to lease a
11 property that you've never been inside before, right?

12 A That is correct.

13 Q You pay the guy \$675 as first month's rent and security
14 deposit. You drive up to -- is that a yes?

15 A Yes. Yeah.

16 Q You drive up to this property in a white Ford Econoline
17 van that has your property in the back of it?

18 A No, sir. The only time that we drove up there was when
19 we were in Mr. Richey's car, which was -- I think was a Lexus
20 or Cadillac. It's been awhile. Jasen Howard showed up with
21 the van.

22 Q So he showed up at 2305 Virginia?

23 A Yes.

24 Q And you left your property in this van. The last time
25 you saw it it was one street in front of 2305 Virginia?

1 A On the side. It was on 23rd.

2 Q Did you say anything about the van to the inspector?

3 A Mr. Parr and I, to the best of my knowledge, have never
4 met. The only conversation we had was about 60 seconds long
5 on the telephone. I never physically met Mr. Parr before.

6 Q Did you ever tell him that you were moving into the
7 property?

8 A I told him that we had been attempting to move in when
9 the tornado -- we wanted to move in when the tornado hit.

10 Q Let's talk about this letter that you submitted to FEMA
11 purportedly from Dean Richey. I'm talking about Exhibit 28
12 which I'm going to put up on the screen again. It's already
13 been read a couple of times so I'm not going to read it again.
14 But this letter was provided to you by Dean Richey via email?

15 A Yes, sir.

16 Q And that letter said that Mr. Richey showed up on the
17 21st of May and personally witnessed you moving property into
18 the residence at 2305 Virginia, doesn't it?

19 A That's what the letter states but that's not what
20 happened.

21 Q And so you admit that the letter is false in that regard?

22 A I am not responsible for the content of a letter written
23 by somebody else. The majority --

24 Q But, sir, that was not my question. My question is: You
25 admit that that letter is false in that regard, correct?

1 A I guess I so stipulate.

2 Q You admit that that letter is false?

3 A No, I do not admit that letter is false. I admit that
4 there is an error in that letter in regards to the statement
5 you want me to address.

6 Q An error in that letter. Okay. Since there does seem to
7 be a little bit of a disagreement about this, let me read that
8 letter.

9 "I returned to the property on the 21st, Saturday,
10 to check on the progress of the painting and witnessed
11 Mr. Olsen moving his personal property into the residence."

12 Is that a true statement?

13 A No, it is not.

14 Q "The residence was subsequently destroyed on 22nd of May,
15 2011, by an F5 tornado that struck Joplin. I hope that this
16 clarifies Mr. Olsen's residence status and the monetary
17 arrangements surrounding the rental."

18 So he wrote in that he hopes he clarifies your
19 residence status, yes?

20 A That's what it says. I have no real idea what that
21 means.

22 Q Now, you submitted this letter to FEMA, didn't you?

23 A Yes, I did.

24 Q You submitted --

25 A They asked for it, yeah.

1 Q You submitted this letter to FEMA that you know has a
2 false statement about you moving into that house?

3 MR. RISLEY: I'm going to object, Your Honor. It's
4 argumentative.

5 THE COURT: I will permit it. It's
6 cross-examination.

7 A Can you repeat the question one more time?

8 Q (By Mr. Mohlhenrich) You admit that you submitted a
9 letter containing a false statement that you moved into a
10 house to FEMA; true or not?

11 A Yes, I submitted it.

12 Q Now, you testified that you -- and turning back to
13 Exhibit No. 27 again, that Dean Richey is the one who signed
14 his name on that. Going to focus in on the D on Dean Richey's
15 name. Can you take a look at that? Can you see it pretty
16 clearly now on the screen?

17 A Looks kind of like a P but, yeah.

18 Q Okay. Now going to focus you in on -- and you admit that
19 you submitted the personal property list that was attached to
20 that, correct? This form here which lists out all of the
21 property that you allegedly lost in the tornado?

22 A Yes, sir.

23 Q Which you don't know whether or not it was in the van?

24 A I know some of it was in the van because I saw some of it
25 in the van.

1 Q Let's focus in on the D in the word Dell right there.

2 You admit that you wrote that D?

3 A Yes, sir, that's -- I wrote that.

4 Q And you want the jury to believe that Dean Richey wrote
5 that D?

6 A Yeah. That's different.

7 Q The jury can be its own arbiter of that fact.

8 Here is Exhibit 26 which is the declaration and
9 release to FEMA. Do you admit that you signed that document?

10 A I can verify that's both my printed and written
11 signature. I don't specifically remember that document but
12 those are my signatures on that document.

13 Q Looking at the statement that accompanies your rental
14 agreement, the lease that you submitted, you provided this to
15 FEMA?

16 A Could you zoom in, please?

17 Q I'm sorry?

18 A Could you zoom in, please?

19 Q Yes. This is something you provided to FEMA?

20 A Yes, it is.

21 Q Okay. Now, and you wrote that? You wrote, "I entered
22 into a lease on 5/20/11 -- "

23 A Could you slide that way just a little? Thank you very
24 much.

25 Q You wrote, "I entered into a lease on 5/20/11 moving my

1 personal property in on the 21st of May"?

2 A There's an error on that page. It should read, "I
3 entered into a lease on 5/20/11 to move my personal property
4 in on the 21st." This is a clarification letter for a
5 conversation that I had. Sometimes I -- brain works a little
6 faster than my hand when I'm writing. That's an unclear
7 statement. It's --

8 Q Looking at the D in Dean Richey here, do you admit that
9 you wrote that D?

10 A Yeah. I wrote this letter, yeah.

11 MR. MOHLHENRICH: Nothing further.

12 THE COURT: Redirect?

13 REDIRECT EXAMINATION

14 BY MR. RISLEY:

15 Q The email that Dean Richey sent, did you -- what was the
16 purpose in giving that to FEMA?

17 A They needed to talk to someone that had a either
18 ownership or legal connection to the property and Mr. Richey
19 had told me that he was the contracted property manager for
20 that house.

21 Q When you provided that to FEMA at the time, did you still
22 believe he had something to do with that property?

23 A Oh, yeah. I didn't find out anything different for
24 months.

25 Q You don't believe that today, correct?

1 A Oh, no. No. I would really like to see that guy again.

2 Q You don't dispute the Pyles' testimony that they owned
3 that house, correct?

4 A Oh, not at all.

5 THE COURT: Recross?

6 MR. MOHLHENRICH: Nothing further.

7 THE COURT: Thank you. You may step down.

8 Call your next witness.

9 MR. RISLEY: Defense rests, Your Honor.

10 THE COURT: Any rebuttal?

11 MR. MOHLHENRICH: No, Your Honor.

12 THE COURT: Okay. Let's have a sidebar.

13 (COUNSEL APPROACHED THE BENCH AND THE FOLLOWING PROCEEDINGS
14 WERE HAD:)

15 THE COURT: The instructions are pretty
16 straightforward but you've got another motion to file. We
17 need to get them in order. I think we'll let the jury go
18 home, bring them back in the morning to get started. Even if
19 we had our instruction conference and you got to argue your
20 case, it would be probably after 5:00 before they got it, so
21 I'm going to send them home, prepare for first thing in the
22 morning. Is that agreeable?

23 MR. RISLEY: Yes, Your Honor.

24 MR. MOHLHENRICH: Yes, Your Honor.

25 THE COURT: Okay. Thank you.

1 (PROCEEDINGS RETURNED TO OPEN COURT:)

2 THE COURT: All the evidence is in that you will be
3 considering during your deliberations. It's now necessary for
4 us to take up some legal matters plus to prepare the final
5 written instructions that I will be reading to you. Working
6 efficiently, that would probably take us to 4:15 to 4:30, then
7 I would read the instructions to you, the attorneys would make
8 their closing arguments and then you would begin deliberation.
9 So that can't happen until after 5:00, so I'm going to send
10 you home, we're going to get all that preliminary work done so
11 we can begin right at 9:00 in the morning with me reading the
12 final instructions to you, hearing the positions of the
13 attorneys and then you can begin your deliberations.

14 So with that -- I like to keep my jury informed how
15 we're progressing, why we do things.

16 (Court reads recess instruction to the jury.)

17 THE COURT: All right. Again, be careful about
18 listening to any radio or watch any TV news. I don't know
19 whether there's been any coverage on it or not. If it comes
20 on, turn the TV off or go to another station, please. With
21 that, see you in the morning at 9:00.

22 (Jury exits courtroom at 4:00 p.m.)

23 THE COURT: Do you have something to file?

24 MR. RISLEY: Yes, Your Honor. At this time the
25 defendant would move for a judgment of acquittal at the close

1 of all the evidence. It essentially restates the same
2 argument I made at the end of the government's case and I
3 won't repeat all that other than just ask the Court to give --
4 consider granting the motion for judgment of acquittal.

5 THE COURT: I'll take that under advisement, if we
6 have time to hear from you this afternoon or tomorrow morning
7 before the jury gets here or while they're out. I'm going to
8 take it under advisement. Prepare the instructions intending
9 to give it to the jury.

10 MR. RISLEY: Thank you, Your Honor.

11 THE COURT: Be in recess. Gather up your stuff.

12 MR. RISLEY: If it matters to the Court at all, I
13 have copies of all the cases cited in the brief.

14 THE COURT: Okay.

15 (Court stands in recess at 4:03 p.m.)

16 END OF VOLUME 1

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